

Concessions, communications, and controversy: the early privileges of the Society of Jesus 1537 to 1556

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Concessions, Communications and Controversy:

The Early Privileges of the Society of Jesus 1537 to 1556.

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of
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Introduction

Between 1537 and 1556 the first companions and nascent Society of Jesus obtained numerous papal privileges (special faculties, exemptions, indulgences, and other favors) for the support and protection of its institute and exercise of its pastoral mission. This thesis aims to situate these early concessions within the broader context of regular and mendicant privileges. In doing so I aim to correct a tendency among some historians to overplay the distinctiveness of Jesuit privileges vis-à-vis those of other orders. One example is found in Michael Foss's *Founding of the Jesuits*. He writes:

A professed Jesuit voluntarily places himself under restrictions more severe than those of other orders. Besides the ordinary vows of the religious, he takes a fourth vow of obedience to the pope and a number of simple vows – to maintain the ideal poverty set out in the constitutions, not to look for office inside or outside the Society, and to refuse ecclesiastical appointments, such as a bishopric or the cardinalate, unless ordered to accept by the pope.¹

While commonly viewed as innovations, some of these special vows have their precedents in the privileges of other orders such as the Barnabites who possessed a privilege to refuse ecclesiastical dignities.² Likewise in *The Origin of the Jesuits*, James Brodrick described the Jesuit exemption from singing the Office in choir as a “notable innovation.”³ I will argue below that dispensations from choir and the Office due to the demands of apostolic ministry were a feature of some orders of Clerks Regular and likely

¹ Michael Foss, *Founding of the Jesuits, 1540* (New York: Weybright and Talley, 1970), 125.

² Charles Warren Currier, *History of Religious Orders: A Compendious and Popular Sketch of the Rise and Progress of Principal Monastic, Canonical, Military, Mendicant and Clerical Orders of the Eastern and Western Church* (New York: Murphy and McCarthy, 1896), 368.

³ James Brodrick, *The Origin of the Jesuits* (London: Longmans, Green and Co, 1940), 75.

provided a model for this feature of the Society's institute. Thus, while the Society tailored certain privileges in unique ways according to its needs and mission, many of the privileges had antecedents among older and more contemporary orders. This is most clearly seen in the concession of the *mare magnum* bull *Licet Debitum* in 1549 whereby the Society obtained the pastoral privileges of the Order of Friars Minor.

The subject of privileges is broad and complex. Here I limit my focus to two principal areas of the early Society's history: the pattern, context, and content of its concessions under Paul III (r.1534–1549) and Julius III (r.1550–1555), and the approach of Ignatius towards the use of the Society's privileges as revealed in his correspondence and the Constitutions. These highlight the extent to which Ignatius and the Society understood their privileges in light of the historical and contemporary controversies surrounding regular and mendicant privileges.

Two factors make this a challenging project. Most sources on the privileges of the early Society are in Latin and require translation. In this area I am indebted to the assistance of Brian Dunkle, S.J., a professor of the School of Theology and Ministry at Boston College. In addition, the subject of privileges is primarily the focus of canon law. I do not claim any particular expertise in this discipline. My focus here is primarily in highlighting the subject of religious privileges as a valuable source of research into the history of the Society and its relationship to the wider history of the Church.

Definition of Privilege

A “privilege” is defined as a private law conferring upon some person a special favor contrary to or outside the common law.⁴ The origin of the term “privilege” derives from Roman law, but its etymology has been subject to dispute. Alan McCormack notes that Cicero’s definition of privileges as “laws given for individual persons” (*leges in privatos homines*) likely influenced Isidore of Seville (+ 636) and Gratian (+ c. 1159) in defining privileges as “laws of individual persons” (*leges privatorum*). Canonists in the twelfth century added to this definition. In the works of Stephen Torracensis and Sicard of Cremona (1155–1215), the privilege came to be understood as a private law (*privata lex*) “that separates one from the common norm or renders one immune from the general law.”⁵ By the end of the twelfth century the understanding of the privilege as *lex privata* or *privatio legum* was in common use.⁶ From these varying opinions emerged the definition of the privilege as a private law conferring upon some person a special favor contrary to or outside the common law.

While technically contrary to the common law insofar as it favors a physical person (individual) or juridical person (a legal entity such as an institution or religious order) over the common law, the privilege is meant to protect justice and the common good.⁷ According to Thomas Aquinas a law is defined as:

⁴ Lucius Ferraris, *Prompta Bibliotheca, Canonica, Moralis, Theologica, nec non Ascetica, Polemica, Rubricistica, Historica*, 9 vols. (Rome, 1885–1899), s.v. “Privilegium,” art. 1, no.1, in Ralph Shuhler, “Privileges of Regulars to Absolve and Dispense: An Historical Conspectus and Commentary” (JCD diss., Catholic University of America Press, 1943), ix.

⁵ Alan McCormack, *The Term “Privilege”: A Textual Study of Its Meaning and Use in the 1983 Code of Canon Law* (Rome: Pontifical Gregorian University: 1997), 6–7n7.

⁶ McCormack, *The Term “Privilege,”* 7n7.

⁷ Though contrary to the law, a privilege should not injure justice or the common good. Edward Roelker notes that the liceity of a privilege requires a proportionate cause; otherwise, it would injure justice. See Edward Roelker, “Principles of Privilege According to the Code of Canon Law” (JCD diss., Catholic University of America, 1924), 17.

An ordinance of reason for the common good promulgated by the one who has care over the community.⁸

Therefore the legislator needed to consider the common good when issuing a privilege, for example, in order to foster religion.⁹

The subject of privileges and the jurisprudence surrounding their use and place in the law of the Church is extremely complex. Medieval canonists built up an immense corpus of legal distinctions attempting to clarify the place of the privilege within ecclesiastical law. The complexity surrounding the subject lay in the difficulty of clearly defining what constituted a privilege. This has proved a source of frustration for many scholars of canon law. Richard Helmholz notes:

Writers on the modern law of the church have remarked on the unsatisfactory nature of the early thinking about exactly what a privilege was. According to these authors, the concept was defined as clearly or as narrowly as it might have been, and the proliferation of the several distinctions found in contemporary commentaries is one indication of the lack of adequate definition of which they complain.¹⁰

Helmholz' observation highlights the fluidity surrounding canonical understandings of privileges in the medieval period.

A major source of frustration for canonists lay in what Alan McCormack describes as the “composite form” of the privilege. A privilege covered a variety of provisions and rights that shared in common the nature of being exempt from the general

⁸ Thomas Aquinas, *Summa Theologica*, Ia, IIae, q.9, a.4, in Shuhler, “Privileges of Regulars,” ix,n2.

⁹ Roelker, “Principles of Privilege,”17.

¹⁰ Richard Helmholz, *The Spirit of Classical Canon Law* (Athens: The University of Georgia Press, 1996), 315–16.

norm of the law.¹¹ Gratian's *Decretum* lists individual provisions, special laws, and customary and prescriptive rights as just some of the categories encompassed by the term privilege.¹² Privileges included exemptions from jurisdiction and taxation, indults, faculties, and indulgences. In the medieval period many individuals enjoyed privileges due to their states of life or professions, including cardinals, bishops, clerics, widows, students, and creditors.¹³ This great diversity of privileged rights and concessions presented a major dilemma for canonists in classifying the status of privileges within medieval law.

¹¹ McCormack, *The Term "Privilege,"* 8.

¹² McCormack, *The Term "Privilege,"* 7.

¹³ Canonists composed numerous treatises on specific privileges in the course of the sixteenth and seventeenth centuries. These included Bartolomeus Bersano, *Tractatus de viduis earumque privilegiis* (Lyons, 1699); Franciscus M. Brancaccio, *De privilegiis cardinalium in eorum cappellis dissertatio* (n.p., fprerog 1671); and Petrus Vanderanus, *De privilegiis creditorum commentarius* (Antwerp, 1560); see also Helmholz, *The Spirit of Classical Canon Law*, 337n71.

Chapter One: The Historical Development of Religious Privileges

The jurisprudence governing the privileges of the early Society was a medieval development. The aim of this chapter is to provide an historical overview of the development of religious privileges from monastic exemptions and immunities of the seventh century to the concessions of the fifteenth and early sixteenth centuries.

Origins: Privileges in Roman Law

The origins of the privilege as a legal instrument are found in Roman law. Yet even within the Roman legal system, the status of privileges developed. During the Ciceronian period, many commentators viewed them negatively, as counter to the spirit of the law. Among the disputed laws of The Twelve Tables, the privilege was prohibited. This negative perception changed during the Imperial period, with privileges taking on a more positive function within the legal code. Within this system privileges were equated with various favors, *praerogativa* (prerogatives), and *beneficia* (charitable acts). An example was the prerogative granting benefits to Roman citizens who became parents.¹⁴

Closely related to privileges were special laws (*ius singularia*) that extended special rights to estates and groups of persons. The major distinction between these and the privilege proper was the later codification of the *ius singularia* into the Roman legal code.¹⁵ While the privilege had a vague legal character as a private law, it remained distinct from the ordinary law.

¹⁴ Roelker, "Principles of Privilege," 3.

¹⁵ Roelker, "Principles of Privilege," 3.

The Privilege in Medieval Canon Law

The Roman concept of privilege was incorporated into canon law via the *Codex Justinianus* (529) and *Corpus iuris civilis* (529–534). While the emergence of canon law as a scientific discipline did not emerge until the twelfth century, the early medieval Church made use of the Roman tradition of privileges. Here I will focus on the development of their use with regard to religious communities.

The earliest examples of privileges for religious communities were monastic privileges dated to around the late sixth and early seventh centuries. These typically took the form of charters of rights and freedoms granted by royal, episcopal, and papal writ. The variety of authorities involved indicates that the prerogative of granting privileges was never the exclusive domain of the papacy in the medieval world. Only gradually did the papacy emerge as a dominant power within medieval affairs. While it occupied a position of status and prestige as the center of spiritual authority, internal and external crises and the absence of effective bureaucracy limited the pope's ability to exercise authority beyond the Alps in the seventh century.¹⁶ Thus, many early privileges were granted on a local level by bishops and kings to monasteries under their care.

Characteristic of these early privileges was the granting of “immunities” and “exemptions” from secular and episcopal jurisdiction in order to secure the peace and stability of monastic life and property. The immunity had its origins in Roman law and in the Christian period it constituted a secular privilege granted by the king prohibiting the violation of monastic property by royal agents and other subjects. A common example of

¹⁶ For a summary of crises facing the papacy in the seventh century, see Eamon Duffy, *Saints and Sinners: A History of the Popes* (New Haven: Yale University Press, 2014), 72–86.

this sort of protection was the fiscal immunity prohibiting the collection of taxes on monastic lands.¹⁷

In contrast, “exemptions” were ecclesiastical privileges granted by either bishops or the pope that protected monasteries from the “entry and normal jurisdiction of their local diocesan bishop.”¹⁸ For example, a monastery could be exempted from the episcopal oversight of its internal governance.

Such privileges reflected the role of patronage in promoting the flourishing of monastic life. They also reflected a response to specific needs. The necessity for exemptions and immunities was well established by the seventh century. The late imperial period saw an increased emphasis on the special status of church property. Increasingly, ecclesiastical and secular authorities considered altar sanctuaries, churches, and monastic enclosures sacrosanct and inviolable.¹⁹ Legal sources begin to define the violation of such spaces as “the crime of sacrilege” (*sacrilegii crimen*). The Council of Orleans (549) labeled violators of church property “slayers of the poor.” Thus, the violation of monastic alms and endowments by secular and ecclesiastical officials provided the context for increased protection of monastic rights through privileges of exemption. For example, in 629 Honorius I exempted the monastery of Bobbio from episcopal jurisdiction after the local bishop alienated its property.²⁰

Such exemptions emerged even though the medieval bishop enjoyed broad jurisdiction over monastic foundations in his diocese. The phenomenon of the episcopal

¹⁷ Barbara Rosenwein, *Negotiating Space, Power, Restraint and Privileges of Immunity in Early Medieval Europe* (New York: Cornell University Press, 1999), 3.

¹⁸ Rosenwein, *Negotiating Space*, 4.

¹⁹ Rosenwein, *Negotiating Space*, 36–37.

²⁰ Kriston R. Rennie, “The Normative Character of Monastic Exemption in the Early Medieval Latin West,” *Medieval Worlds* 6 (2017): 63n51.

exemption in this early period was complex, dating to the decrees of the Council of Chalcedon.

It is decreed that no one anywhere build or found a monastery or oratory contrary to the will of the bishop of the city; and that the monks in every city and district will be subject to the bishop.²¹

Thus, in the early medieval period canonical norms recognized episcopal involvement in monastic affairs.

Perhaps surprisingly, this expectation of involvement led bishops to grant special benefits to monastic communities. In the seventh century, many bishops conceded jurisdictional and administrative rights over monasteries to ensure the harmony of both the monastery and diocese.²² In this way, privileges of exemption often served to strengthen the bonds between the monastery, its bishop and the local church.

The scope of an episcopal exemption varied from broad exemptions to narrower concessions of rights whereby the bishop retained significant authority. The seventh-century *Marculf formulary* preserves one early example of a broad exemption from episcopal interference.

Neither we nor our episcopal successors nor archdeacons nor other deputies nor any other person from the episcopal city should presume to have any right at all over this monastery: not over its property, its ordinations, or the estates that have

²¹ Council of Chalcedon, c. 4, trans. Norman P. Tanner, ed., *Decrees of the Ecumenical Councils*, vol. 1, *Nicaea I to Lateran V* (Washington D.C: Georgetown University Press, 1990), 89.

²² Rennie, "The Normative Character of Monastic Exemption," 64.

been given or will be given there by royal or individual gift, or over any other of its holdings.²³

The conditions of this exemption are broad insofar as they keep the bishop and other diocesan authorities at a clear distance from the monastery, its property, and affairs.

Such broad exemptions from episcopal jurisdiction were rare. Due to the economic, social, and political advantages of maintaining control over monasteries in their dioceses, bishops were naturally reluctant to surrender all their rights and interests over such foundations. Gradually, the centralization of papal authority in the twelfth and thirteenth centuries challenged traditional understandings of episcopal rights. Papal exemptions from episcopal jurisdiction to mendicant orders would become a major catalyst for controversy in the mid-thirteenth century.

Only gradually did the papacy emerge as an actor in monastic affairs outside of Rome. This frequently took the form of acting as a third-party arbitrator in disputes between monasteries, on the one hand, and bishops and monarchy, on the other. Through these interventions, the papacy established bonds between monastic foundations and Rome. An emerging feature of papal privileges in the tenth century was the promise of protection (*tuitio*) if the monastery agreed to come under the jurisdiction of the Holy See. For instance, in 909 the foundation charter of the great monastery of Cluny placed the abbey under the direct protection of the Apostolic See, a relationship that granted the monks immunity from royal interference. Such promises of papal protection were more symbolic than real; nevertheless, the language of protection projected a growing sense of

²³ *MS Marculf*; in Rosenwein, *Negotiating Space*, 104. The Marculf formulary is a collection of sample documents and formulas for exemptions and immunities dated to c. 700.

the papacy's administrative and jurisdictional authority vis-à-vis that of the local episcopacy and secular princes.²⁴

The period from the eleventh to thirteenth centuries witnessed a gradual consolidation of papal authority.²⁵ Exemptions granted by the Apostolic See took on more significance as expressions of the plenitude of papal power and the role of the pope as sole legislator and judge of the Church. Canonists equated the pope's power as legislator with his power to bind and loose from sin. Rufinus of Bologna (1150–1191) noted that the authority of the Roman see was exalted in the issuance of privileges.²⁶ Innocent III underscored and extended his claims to sovereignty over the Church through the strategic confirmation of privileges. At the Fourth Lateran Council (1215), Innocent affirmed the ancient privileges of the patriarchal sees (including the right to bestow the pallium), thus underlining their subordination to Rome.²⁷

In this period exemptions also became a normative feature of the bond between religious houses and the papacy. The growth of religious life within the medieval West between 1000 and 1300 was matched by a corresponding proliferation of privileges. A key development was the emergence of affiliated monastic houses joined by common customs and privileges to a motherhouse, as appears, for instance, in the foundations of Cluny and Cîteaux.²⁸ This phenomenon presaged the emergence of extra-diocesan

²⁴ Rennie, "The Normative Character of Monastic Exemption," 69n54.

²⁵ A good overview of this period is found in Duffy, *Saints and Sinners*, 110–60.

²⁶ Helmholz, *The Spirit of Classical Canon Law*, 23.

²⁷ Fourth Lateran Council, can. 5; "Renewing the ancient privileges of the patriarchal sees, we decree, with approval of this sacred universal synod, that after the Roman church, which through the Lord's disposition has a primacy of ordinary power over all other churches inasmuch as it is mother and mistress of all Christ's faithful, the church of Constantinople shall have the first place, the church of Alexandria the second place, the church of Antioch the third place, and the church of Jerusalem the fourth place; each maintaining its own rank"; trans. in Tanner ed., *Decrees of the Ecumenical Councils*, vol.1, 236.

²⁸ "Urban II in 1096 referred to the Beaulieu and St-Martin-des-Champs as limbs (*membra*) of the monastery of Cluny"; quotation in Giles Constable, *The Reformation of the Twelfth Century* (Cambridge:

religious orders and raised many questions over the interpretation of privileges and whether they applied to dependent houses.²⁹

A major monastic privilege during this period was the exemption from the payment of tithes. Binding on both monks and laity, the tithe, a payment of a tenth of revenues and produce, was one of the major economic institutions of the medieval period. Tithe exemptions, that is, freedom from payment of the tenth, became a means of supporting reformed monastic houses committed to recovering the *vita primitiva* of early monasticism through seclusion from the world and strict adherence to poverty. In the 1130s, Innocent II granted tithe exemptions to numerous reformed houses including those of the Cistercians and Canons Regular (Premonstratensians and Augustinians).³⁰ Over time the pecuniary advantages of such exemptions and openness to abuse became a leading source of tensions between monastic houses and the local church.

Mendicants

A significant watershed in the history of privileges was the emergence of mendicant orders in the early thirteenth century, including the Order of Preachers in 1216 and the Order of Friar Minors or Lesser Brothers of St. Francis in 1223. While attention will be given in subsequent chapters to the privileges of these orders, here it is necessary to note key features that distinguished them from their monastic forebears.

The mendicants followed a mixed rule incorporating elements of monastic life with active apostolic ministry. Though they remained partially fixed to a monastic style of life, living in common and maintaining communal choir, they were oriented primarily

Cambridge University Press, 1996), 174–75; see also Colin Morris, *Papal Monarchy: The Western Church from 1050–1250* (Oxford: Clarendon Press, 1989), 63.

²⁹ Constable, *The Reformation of the Twelfth Century*, 240.

³⁰ Giles Constable, *Monastic Tithes from their Origins to the Twelfth Century* (Cambridge: Cambridge University Press, 1964), 237–39.

towards evangelical preaching and works in the towns and marketplaces of Europe. This apostolic focus, combined with their mobility and emphasis on learning, marked them as effective instruments for promoting pastoral renewal as well as papal reform policies.

As I discuss below, these features affected the mendicants' acquisition of privileges, exemptions, and benefits. Though Francis of Assisi had forbidden his brothers from seeking privileges, within a short time the Friars Minor had obtained through papal patronage numerous faculties and exemptions to equip them for their pastoral missions in parishes and dioceses of Europe.³¹ In time these concessions took tensions over religious exemptions from episcopal and parochial jurisdiction to a new level.

Developments in the Canon Law of Privileges in the Twelfth and Thirteenth Centuries

A key stage in the development of medieval privileges in the twelfth century was the growth of papal bureaucracy, and the emergence of canon law as a scholastic discipline. As noted above, these developments were closely tied to the articulation and definition of papal monarchy and the role of the pope as the supreme legislator and judge of ecclesiastical matters.

While canonists acknowledged the function of privileges for defending the authority of the papacy, they were cognizant of the dangers of broad papal power, especially in cases where the pope might drift into error and heresy. The power of the pope as legislator and judge ultimately rested on the principle that the laws and decisions he made were consistent with the faith, morally sound, and grounded in reason.³²

³¹ Regis J. Armstrong, J.A. Wayne Hellmann, and William J. Short, eds., *Francis of Assisi: Early Documents*, vol. 2 (New York: New City Press, 1999), 12.

³² Vincentius Hispanus argued: "No one may say to him (the Pope), 'why do you do this?' ... However, he must shape his will to public utility"; quotation in Kenneth Pennington, *Pope and Bishops: The Papal Monarchy in the Twelfth and Thirteenth Centuries* (Philadelphia: University of Pennsylvania Press, 1984), 24.

Nevertheless, aside from extreme cases of abuse and heterodoxy, the majority of canonists did not seek to place limits on the pope's legislative authority. Most defended the established maxim: *papa a nemine iudicatur* ("the pope is judged by no one").³³

Indeed, the popes themselves were key interpreters of the law. Successive pontiffs of the twelfth and thirteenth centuries were trained canonists, well-versed in the principles of jurisprudence. Figures such as Alexander III (r.1159–1181), Innocent III (r.1198–1216), and Boniface VIII (r.1294–1303) played a special role in the tradition of jurisdiction regarding privileges. Two examples are worth noting. First, in 1179 Alexander III endeavored to place restrictions on the interpretation of exemptions. This was a response to abuses of exemptions by monastic orders, including holding divine services in places under interdict and burying the dead in the same churches.³⁴ Second, Boniface VIII introduced a distinction between the narration and assertion of a privileged right. In order to determine whether a right was created by a privilege, it needed to be asserted through clear enacting words, what became known as an assertion. The mere description of a privilege in a document could not suffice as evidence of a right being conceded.³⁵

The proliferation of papal privileges and the assertion of privileged rights by various parties made the need for such a distinction acute. One area of conflict was where the rights obtained in later privileges clashed with those of prior privileges. Thus, a principle emerged whereby a second privilege needed to mention specifically the prior

³³ Wolfgang P. Müller, *Huguccio: The Life, Works, and Thought of a Twelfth-Century Jurist* (Washington D.C.: Catholic University of America Press, 1994), 15n34.

³⁴ Pennington, *Pope and Bishops*, 161; see also the Third Lateran Council, c. 9, in Tanner, ed., *Decrees of the Ecumenical Councils*, vol. 1, 216.

³⁵ Helmholz, *The Spirit of Classical Canon Law*, 333.

privilege in order to prevail over it. If the prior privilege was not specifically mentioned in the later privilege, the rights of the prior privilege prevailed.³⁶

Further distinctions and principles governing privileges

The number of privileges conceded in the twelfth and thirteenth centuries led canonists to refine further the distinctions between them and the principles underpinning their use. These attempts resulted in a series of scholastic classifications. In the *Summa aurea*, Hostiensis (1200–1271) divided privileges of exemption into distinct classes including “general” and “special” privileges. A general privilege was defined as a privilege extending to all persons who fit within a certain legal category, such as the privilege of sanctuary for all churches granting immunity from secular interference. In contrast, a special privilege was defined as that granted to an individual person or institution, such as an episcopal exemption granted to a religious house.³⁷

Central to the liceity of a privilege was the principle that it should not injure the rights of another without reasonable cause. Hostiensis argued that in situations where rights were injured, the privilege should, if possible, be reduced to common law (*ius commune*). In other cases such privileges could be ruled invalid. In 1203 Innocent III judged invalid a bishop’s privilege granted to the monastery of Santa Cruz in Portugal because it was deemed to injure episcopal rights. The privilege, granted by the bishop of Coimbra, Miguel Pães (r.1158–1176), had provided the monastery with a full exemption from episcopal jurisdiction.

³⁶ Helmholz, *The Spirit of Classical Canon Law*, 332.

³⁷ Helmholz, *The Spirit of Classical Canon Law*, 333.

The bishop should not have any authority, even the slightest, to command, prohibit, or ordain, unless he should be asked, so that the canons may always have the perfect liberty of their predecessors.³⁸

In this case there were suspicions over the original privilege being extorted from the bishop. At the same time, Innocent was likely conscious of the constitutional implications for such a broad alienation of episcopal rights.³⁹

Other principles governed the revocation of privileges. Gratian's *Decretum* laid out several key principles, including the loss of a privilege through abuses of privileged rights. For example, in 1169 Alexander III threatened the revocation of all Cistercian privileges due to the order's abuse of its tithe exemptions.⁴⁰ Privileges could also be lost if the reasons or circumstances for their original concession ceased to exist.⁴¹ For example, a privilege attached to a thing (*res*) ceased to exist on the absolute destruction of the privileged thing, such as a pilgrimage shrine or sacred object.⁴² A privilege granted to a physical person ceased to exist upon the death of that person, whereas privileges enjoyed by individuals by virtue of their office remained tied to the office, such as the privileges of cardinals and bishops. In the case of institutions such as religious orders, privileges ceased to exist upon the suppression of the order by the supreme legislator, a situation relevant to the universal suppression of the Society of Jesus in 1773.⁴³

³⁸ *Portugaliae monumenta historica Scriptores* 1 (Lisbon, 1856), 72–73; in Pennington, *Pope and Bishops*, 168.

³⁹ Pennington, *Pope and Bishops*, 169.

⁴⁰ Constable, *Monastic Tithes*, 292.

⁴¹ Helmholz, *The Spirit of Classical Canon Law*, 321.

⁴² Roelker, "Principles of Privilege," 121.

⁴³ Roelker, "Principles of Privilege," 122.

Classes of Privilege and Methods of Concession in the Sixteenth Century

By the sixteenth century, a further level of distinctions had taken place that referred to three types of privilege: those that were *contra ius* (“contrary to the law”), that is, a privilege that derogates from the law; *praeter ius* (“outside of the law”), that is, a privilege granted in a situation unforeseen by the law but not strictly contrary to the law; and *secundum ius* (“according to the law”), that is, a privilege that was already held by virtue of a particular office or dignity, for example, episcopal rights. This threefold distinction reflects yet another level of systematization by canonists. At the same time, the distinction raised objections that only *contra ius* privileges fulfilled the strict or “classical” definition of a privilege as a special favor contrary to the law.⁴⁴ Despite these objections among the early concessions granted to the Society, examples of both *contra ius* and *praeter ius* privileges can be found.⁴⁵

Means of Concession in the Sixteenth Century

Privileges were conceded to religious orders in two ways, either by a *motu proprio* (“by a personal decision of the pope”) or *ad instantiam* (“for a specific situation”). The distinction between these two modes of concession lay in the presence or absence of a petition for a privilege. An *ad instantiam* privilege was conceded in response to a petition, whereas a *motu proprio* was an act of the pope independent of any request. Closely tied to the mode of concession was the means by which a privilege was

⁴⁴ Helmholz, *The Spirit of Classical Canon Law*, 336.

⁴⁵ One example of a *contra ius* privilege granted to the Society included faculties (authorizations) to absolve grave sins and commute vows normally reserved to the Apostolic See. *Praeter ius* privileges included the faculty for the Superior General to promote non-professed coadjutors to sacred orders. The privilege was *praeter ius* insofar as the grade of coadjutor was unique to the Society and not contrary to a law of the Church; see Estanislao Olivares, “Privilegia pro Societate Iesu a S. Ignatio Obtenta,” *Periodica de re Canonica* 80 (1991): 341, 355.

acquired. Hence, petitioners could obtain privileges either by “direct concession” or by “communication.”

Direct concession

While until the late fifteenth century direct concession was the sole means by which petitioners acquired privileges, the means by which direct concession was effected were varied. A direct concession could be validly effected through written documents (bulls, briefs, rescripts, etc.) or by oral pronouncement by the pope himself (*viva vocis oraculo*) such as during a papal audience. These were normally authenticated as valid through the testimonial letters of curial staff.⁴⁶ Over time, formal briefs and bulls addressed to a religious order could ratify these oral concessions.

Confirmation

While the act of confirmation could simply confirm in writing the existence of an earlier privilege, it was also the means by which any defects in the original privilege could be resolved. An example of this is in the bull *Exposcit debitum* (1550) whereby Julius III confirmed and approved changes to the 1540 Formula of the Institute of the Society of Jesus. Confirmations served to protect and guarantee the existence of the order’s privileges. The survival of a privilege from one pope to another was never certain. As discussed above, a privilege could be abrogated by the will of a new pope as when Alexander III threatened to abrogate the privileges of the Cistercian order in 1169 due to abuses of their tithe privileges. Confirmations thus served as a means by which orders secured their privileges and their relationship with the papacy.

⁴⁶ McCormack, *The Term “Privilege,”* 332.

Communication

The concession of privileges by “communication” is important for the study of Jesuit privileges. This form of concession involved the pope enlarging the scope of a privilege so other orders might share or “participate” in it. The origins of this method can be traced to the *mare magnum* bulls of the fifteenth century. In 1474, Sixtus IV (r.1471-1484) granted the first general communication of privileges among the mendicant orders. The first was granted to the Order of the Hermits of St. Augustine in the bull *Dum fructus uberes* in February 1474. This granted the Augustinians the right to participate in all the privileges of the Order of Friars Minor and the Order of Preachers. This included not only privileges possessed in the past but also all privileges that should accrue to the orders in future.⁴⁷ In August of 1474, Sixtus issued the constitution *Regimini universalis*, which granted the mutual intercommunication of privileges between the Order of Friars Minor and the Order of Preachers. This entailed the reciprocal sharing in the privileges of the both orders.⁴⁸

In the course of the sixteenth century, communication through the granting of the *mare magnum* became more general. In 1519, Leo X (r.1513–1521) defined communication as the general exchange of privileges among the mendicant orders (Franciscans, Dominicans, Augustinians, Carmelites, Servites). Under Pius V (r.1566--1572) this was extended to all religious orders.⁴⁹

⁴⁷ Shuhler, *Privileges of Regulars*, 18.

⁴⁸ Shuhler, *Privileges of Regulars*, 18.

⁴⁹ Leo X, *Dudum per nos accepto*, 10 December 1519; see Nelson H. Minnich, “Egidio Antonini da Viterbo, the Reform of Religious Orders, and the Fifth Lateran Council (1512–1517)”; in Nelson H. Minnich, ed., *The Decrees of the Fifth Lateran Council (1512–17): Their Legitimacy, Origins, Contents, and Implementation* (Abingdon: Routledge, 2016), 266.

Popes also specified limits to these communications. For instance, Clement VII granted a communication of the privileges of the Conventual Franciscans and Camaldulense monks specifically to the Capuchins.⁵⁰ Thus, both a narrow and broad use of communication is to be found in the course of the sixteenth century.

Communications within the Society

With regard to the privileges of the Society of Jesus, it is important to understand the role of communication. The nature of the Society's governance is monarchical, grounded in the authority of the Superior General.⁵¹ It belongs to the Superior General to communicate the privileges of the Society to Jesuits as he deems fit. Thus, Jesuits cannot use the privileges of the Society unless they are communicated to them through the General.⁵² Among early concessions was the faculty for the General to communicate to major superiors the faculty to bestow certain privileges on the Society's members.⁵³ Not until 1575 were these powers of communication confirmed in a privilege of Gregory XIII in the bull *Decet Romanum Pontificem*:⁵⁴

All privileges of whatever kind, even by communication, granted to its members or places thus far or to be granted in the future, are considered granted to the Superior General.

The General can communicate them by himself or by another to any place or person of the Society, even novices; and in no other way can other members of

⁵⁰ Roelker, "Principles of Privilege," 46.

⁵¹ Roelker, "Principles of Privilege," 47; see also *Institutum Societatis Iesu*, vol. 1, *Bullarium et Compendium Privilegiorum* (Florence, 1892) [hereafter *InstSJ*], I: 24; trans. in *Manual for Juridical Practice of the Society of Jesus* (Rome: Curia of Superior General of the Society of Jesus, 1997), 196 (§377.14).

⁵² Roelker, "Principles of Privilege," 47.

⁵³ Paul III, *Exponi Nobis*, 5 June 1546; see *InstSJ* I: 12–13.

⁵⁴ Gregory XIII, *Decet Romanum Pontificem*, 3 May 1575; *InstSJ* I: 57–58.

the Society use these privileges, except through the Superior General and with his approval.⁵⁵

Conclusion

The jurisprudence governing the privileges of the Society of Jesus in the sixteenth century emerged from a medieval development. For the purpose of this thesis it is important to emphasize the difficulty in establishing a clear definition of what constituted a privilege. Despite the classical definition of a privilege as “a private law contrary to the common law,” the term privilege had a “composite” nature in that it covered a broad range of rights and provisions that shared the characteristic of implying an exemption from the common law. This range of meanings was further complicated by the tendency of using interchangeable terms to refer to privileges such as favors, graces, faculties, and exemptions. These could be understood as privileges in their own right, but they could also be said to be contained within a privilege.

Despite these issues, most canonists agreed in principle that the pope’s authority as sole legislator of the Church allowed him to derogate from the law of the Church. From the thirteenth century onwards this power to bestow privileges was a principal means by which papal authority was exalted over the jurisdiction of bishops and clergy.

Tied to this increase in papal authority was the growing papal support for religious houses and new orders of mendicant friars. These orders acquired new exemptions from episcopal jurisdiction and deepened their dependence on papal patronage. This reached its apogee with the first papal orders that came completely under papal jurisdiction, such as the Order of Friars Minor and the Order of Preachers in the

⁵⁵ *Decet Romanum Pontificem*; trans. in *Manual for Juridical Practice of the Society of Jesus*, 193 (§367.4).

early thirteenth century. The Order of Poor Ladies (later known as the Order of Saint Clare), founded by and under the jurisdiction of the papacy in 1217/1218, similarly received many privileges.⁵⁶ These provided a juridical model for future orders subject to papal jurisdiction, such as certain orders of Clerks Regular, including the Society of Jesus. Characteristic of this status as a papal order was the dependence upon privileges for the protection of the order and support of its apostolates.

⁵⁶ Catherine M. Mooney, *Clare of Assisi and the Thirteenth-Century Church: Religious Women, Rules, and Resistance* (Philadelphia: University of Pennsylvania Press, 2016), 54–66.

Chapter Two: Papal Concessions of Privileges to the Early Society (1537–1556)

The first companions and early Society of Jesus obtained numerous privileges via a series of papal concessions in the period from 1537 to 1556. This period covers the arrival of the first ten companions in Venice in 1537 until the death of Ignatius, the first Superior General of the Society, in July 1556. In that time the Society had grown from ten companions to over one thousand Jesuits dispersed across the globe. The privileges obtained during these years were integral to this development because they provided the Society with the requisite pastoral and juridical instruments to support its *forma vivendi*, or form of life, as laid down in the Formula of the Institute.

The aim of this chapter is twofold. The first aim is to provide an overview of the concessions granted to the Society during this period. I argue that these trace key stages in the growth of the early Society, with many privileges indicative of the pressure brought on by rapid expansion into varying apostolates and geographical regions. The second aim is to highlight the extent to which many of these privileges obtained were common to, or had antecedents in, the privileges of the mendicant orders and other orders. This is most apparent in the *mare magnum* bull *Licet Debitum* of 1549 that communicated to the Society the *mare magnum* privileges of the Friars Minor.

Sources regarding the Society's Privileges

For the effective governance of the Society of Jesus, the *Constitutions* underline the importance of the Superior General possessing relevant information regarding the

Institute of the Society.⁵⁷ This includes the possession of papal documents pertinent to the Society.

It will also be helpful in everything for the general to have near himself the bulls, briefs, and also the concessions that pertain to the founding and the favors or privileges of the Society and a summary of all of them.⁵⁸

As noted in chapter one, bulls and briefs were the most common papal documents through which privileges were conceded. The bulls and briefs containing concessions of privileges to the Society during this period were numerous. The majority of these belonged to the pontificate of Paul III (1534–1549) and Julius III (1550–1555), including *Regimini* (1540), *Iniunctum Nobis* (1544), *Cum Inter Cunctas* (1545), *Exponi Nobis* (1546), *Pastoralis Officis* (1548), *Licet Debitum* (1549), *Exposcit Debitum* (1550), and *Sacrae Religionis* (1552). These are the subject of this chapter.

Compendia of Privileges

The *Constitutions* also advise the Superior General to keep a summary, or “compendium,” of the Society’s key documents at hand, including a summary of its privileges.⁵⁹ In 1577, Everard Mercurian promulgated the first draft of the “Compendium Privilegiorum.” A final “Compendium” was approved by Aquaviva and published in 1584. This text underwent several revisions: the first Prague edition of the Institute (1705), the second edition (1775), and the Roman edition of the Institute by Augustus Lehmkuhl and Louis Delplace (1886–1891), known as the *Novum Compendium*

⁵⁷ Antonio M. de Aldama, *The Constitutions of the Society of Jesus. Part IX: The Superior General*, trans. Ramón E. Delius and Ignacio Echániz (St. Louis: Institute of Jesuit Sources, 1999), 186.

⁵⁸ John W. Padberg, ed., *The Constitutions of the Society of Jesus and Their Complementary Norms* (St. Louis: Institute of Jesuit Sources, 1996) [hereafter *Cons.*] §792.

⁵⁹ *Cons.* §792; see also Aldama, *Superior General*, 186–87. The Latin translation of this constitution calls the summary of privileges a “compendium.”

Privilegiorum. A further edition of the Institute was the Florence edition by Genaro Bucceroni and Louis Costa.⁶⁰

The majority of references to the privileges of the Society in this thesis are taken from the *Institutum Societatis Iesu*, vol.1, *Bullarium et Compendium Privilegiorum*, published in 1892.⁶¹ To aid further study a table of papal concessions that list the Society's early privileges and their dates is provided in the Appendix. The information in this table does not aim to cover every privilege obtained, but to provide sufficient background to facilitate other research.

Concessions (1537–1556)

The concessions of privileges to the Society can be divided into two periods, those obtained between 1537 and the approbation of the Society in 1540, and those obtained after 1540. A notable feature of these concessions is how many were obtained through *viva vocis oraculo* concessions, that is, through personal pronouncements of the pope. As noted in chapter one, such concessions presented issues with regard to confirming their authenticity. They were also difficult for the Superior General to “communicate” (extend) to other Jesuits, and therefore required formal ratification in briefs, bulls, and rescripts. These *viva vocis* concessions reveal that the Society obtained numerous privileges sometimes years in advance of their formal ratification in papal documents. For instance, the brief *Cum Inter Cunctas* (1545) granted significant pastoral faculties to the Society, including the absolution of sins reserved to bishops and the Holy See. In 1541, Jean Codure obtained this faculty in a *viva vocis* concession, as attested in a

⁶⁰ Aldama, *Superior General*, 187. In the wake of Vatican II, the *Compendium* underwent further revisions because many privileges fell into abeyance with the introduction of the 1983 *Code of Canon Law*. For the purpose of this thesis and the scope of its focus, these changes are not relevant.

⁶¹ *Institutum Societatis Iesu*, 3 vols. (Florence, 1892–1893).

testimonial letter of Cardinal Alexander Farnese to the Society in 1543.⁶² Another concession that will be discussed below was the faculty to absolve cases of heresy that had been especially reserved in the bull *Coena Domini*. Although Alphonsus Salmeron obtained this faculty during an audience with Julius III in May 1551, it did not appear in a papal brief until *Sacrae Religionis* (1552).⁶³ The occasion for this audience was likely Salmeron's missioning to the next session of the Council of Trent, where he had previously known Julius III as Cardinal Del Monte, one of the Council presidents.⁶⁴ The importance of these personal relations with the papacy is seen in the concessions granted to the first companions between 1537 and the approbation of the Society in September 1540.

Concessions to the First Companions (1537–1539)

Ignatius and the first companions received significant pastoral privileges from Paul III and his legates. The context of these concessions was tied to the companions' request for permission to undertake passage to the Holy Land, a voyage which at that time required papal approval. The *Testament* of Ignatius is silent on the granting of faculties to the priests among the group; however, in several letters, Ignatius noted special faculties among other favors granted to the companions.⁶⁵ In a letter to Juan de Verdolay in July 1537, Ignatius wrote:

⁶² Olivares, "Privilegia pro Societate Iesu," 342–43.

⁶³ Olivares, "Privilegia pro Societate Iesu," 369.

⁶⁴ William V. Bangert, *Claude Jay and Alfonso Salmerón: Two Early Jesuits* (Chicago: Loyola University Press, 1985), 208.

⁶⁵ Joseph N. Tylenda, *A Pilgrim's Journey: The Autobiography of Ignatius of Loyola*, rev. ed. (San Francisco: Ignatius Press, 2001).

Those who are already priests were given faculties to hear confessions and to grant absolution in all circumstances reserved to bishops.⁶⁶

In addition to these faculties, the pope granted dimissorial letters (authorized permissions) to those who were not yet ordained. These letters were special legal forms authorizing their ordination to the priesthood. In the case of the companions, these papal letters contained the special provision that they could be ordained by any bishop, on three feast days or Sundays.⁶⁷

In addition to these concessions, the papal legate in Venice, Jerome Verallo, granted extensive faculties for the newly ordained companions within the territories of the Venetian Republic. These included the faculty to preach to the people and to interpret sacred scripture either publicly or privately.⁶⁸ The faculty to absolve reserved sins, including all those reserved to the patriarchs, archbishops, bishops, and ordinaries of other places, was again noted.⁶⁹

Further faculties were granted to Ignatius, Peter Faber, and Diego Laínez upon their arrival in Rome in March 1538. These included the faculty to preach the Word of God, to exhort, and to hear confessions within the city of Rome and its environs. While

⁶⁶*Monumenta Ignatiana. Sanctii Ignatii de Loyola Societatis Jesu fundatoris epistolae et instructiones* (hereafter *Epist.*), 12 vols. (Madrid, 1903–1911), I: 118–23; trans. in *Saint Ignatius of Loyola: Personal Writings*, ed. Joseph H. Munitiz and Philip Endean (London: Penguin, 1996), 145. Other English translations of Ignatius' letters: *Ignatius of Loyola: Letters and Instructions*, ed. Martin E. Palmer, John W. Padberg, and John L. McCarthy (St. Louis: Institute of Jesuit Sources, 2006); *Saint Ignatius of Loyola: Letters to Women*, ed. Hugo Rahner (New York: Crossroad, 2007); *Counsels for Jesuits: Selected Letters and Instructions of Saint Ignatius of Loyola*, ed. Joseph N. Tylenda (Chicago: Loyola University Press, 1985).

⁶⁷*Epist.* I: 118–23; see Palmer and Padberg, in *Ignatius of Loyola: Letters and Instructions*, 29.

⁶⁸*Fontes documentales de S. Ignatio de Loyola* (Rome: Institutum Historicum, 1977) [hereafter *FontDoc*] 115: 533; in Olivares, "Privilegia pro Societate Iesu," 338.

⁶⁹"Eosque a casibus patriarchis, archiepiscopis, episcopis aliisque locorum ordinariis aut ex iure aut ex consuetudine reservatis absolvere." *FontDoc* 115: 533; in Olivares, "Privilegia pro Societate Iesu," 338.

these faculties and those in Venice were restricted to the territories of the respective cities, they were legatine privileges and carried the weight of papal authority.

These faculties were extraordinary for a group of itinerant foreign priests. Joseph Conwell notes:

These priests were not members of a religious order that had expanded beyond diocesan boundaries, but diocesan priests from various dioceses outside the territory in question who were planning a pilgrimage to the Holy Land. The faculties granted were truly extraordinary. Here were men without a parish, without a benefice of any kind, without *cura animarum* of any sort, some with no experience of hearing confessions, and yet the faculties given were broad indeed.⁷⁰

The granting of these extraordinary faculties needs to be viewed in terms of what the companions offered the papacy of the time. Papal generosity to the first companions stemmed, in part, from their distinctive virtues as highly educated and skilled orators. The companions impressed the papal court in theological discussions with cardinals and theologians. Ignatius wrote:

⁷⁰ Joseph F. Conwell, *Impelling Spirit: Revisiting a Founding Experience, 1539, Ignatius of Loyola and His Companions* (Chicago: Loyola Press, 1997), 142–43.

They were granted an audience with the Pope. Afterwards many cardinals, bishops and professors came and were in discussion with them. One of those present was Dr. Ortiz, who has been quite exceptionally supportive to them. Several other distinguished scholars were also favorable. The upshot was that the Pope was very pleased with them, as were all those gathered at the discussion, and began to grant them every possible help.⁷¹

Similarly, in a letter of 19 December 1538 to Isabel Roser, Ignatius noted the habit of certain companions attending regular theological disputations at the papal court.⁷² The same letter noted that the pope appointed Láinez and Faber to teach positive and systematic theology at the university college in Rome (La Sapienza). In short, the Parisian education combined with the spiritual zeal of the first companions would not have gone unnoticed by a pope concerned for the reform of the Church and clergy in the sixteenth century. As “Parisian Masters,” the first ten companions represented an elite group.

Although not a recognized order when they received these early concessions, the grant of such privileges highlights the religious character of the group. It is unlikely that the pope would bestow such faculties on a group of individual priests who had no ties to a diocesan bishop and were thus prone to become a burden or even pose a threat to dioceses. Barton Geger, S.J., writing on certain myths associated with Ignatius, has argued that as early as 1535, Ignatius was articulating in his correspondence a desire to form a group of religious. This was confirmed in his selective acceptance of companions and the adoption of habits, during his period of studies at Alcala (1526) and Salamanca

⁷¹ *Epist.* XII: 321; trans. Munitiz and Endean, in *Saint Ignatius of Loyola: Personal Writings*, 145.

⁷² *Epist.* I: 137–44.

(1527–1534).⁷³ Hence, the early Jesuits received many of these concessions when they were already organized, albeit loosely, in a religious manner.

The experience of the first companions in Venice and Rome in the late 1530s also needs to be viewed in the wider context of the emergence of new orders of Clerks Regular, and the papal support for such orders in the sixteenth century. These included the Theatines, Barnabites, Somaschans, Oratorians, and Piarists, who were united by a common emphasis on the moral and spiritual reform of the Church.⁷⁴ The primary characteristic of all these groups was the turn towards active apostolic ministry in the world through a focus on charitable works of mercy, public preaching, and the promotion of regular confession and communion.⁷⁵ The influence of these orders on the privileges of the Society will be highlighted below. Here it is important to recognize the papal support of the first companions as part of a broader policy of supporting reformed priests.

Concessions (1540–1556)

Many of the concessions granted to the Society in the period from 1540 to 1556 need to be viewed in light of its rapid numerical and geographical expansion. From September 1540 to July 1556, the Society went from ten companions to over one thousand members. Within nine years of its foundation, the Society had communities established in twenty-two cities from Rome to Goa in India.⁷⁶ Between 1550 and 1556,

⁷³ Barton T. Geger, “Ten Things That Ignatius Never Said or Did,” *Studies in the Spirituality of Jesuits* 50 (2018): 35.

⁷⁴ For background to the Theatines, see William V. Hudon, *Theatine Spirituality: Selected Writings* (Mahwah: Paulist Press, 1996), 1–29; also on the Theatines, Barnabites, and Somaschans, see Ludwig Pastor, *The History of the Popes from the Close of the Middle Ages*, vol. 10, ed. Ralph Kerr (St. Louis: Herder, 1923), 411–19, 448–53.

⁷⁵ On the promotion of a devotion to frequent confession and communion among the orders of Clerks Regular, see O’Malley, *The First Jesuits* (Cambridge: Harvard University Press, 1993), 152.

⁷⁶ O’Malley, *The First Jesuits*, 53.

the number of provinces rose from three (Spain, Portugal, and India) to twelve.⁷⁷ Major concessions often marked and facilitated key stages in this growth, such as the revised Formula of the Institute (1550), the faculties to change the Constitutions, and the faculties to admit coadjutors into the Society. Other privileges reveal that many features of the Society's Institute were open to debate between 1540 and the revised Formula of 1550. For instance, commentators were unclear about the nature of the Society's governance and the relationship of the Superior General to his council. The revised Formula of the Institute of 1550, issued by Julius III, confirmed as a privilege the monarchical authority of the Superior General over the universal Society:

The universal method of governing [of the Society of Jesus] (contrary to common law) is monarchical and contained in definitions by the decisions of one Superior.⁷⁸

While the Formula of 1540 had mentioned the authority of the Superior General, or *praepositus*, in governing the Society, it alluded to the role of his council in advising him on important matters. This led to ambiguity over the extent to which the general was bound to follow the advice of his counselors. Juan de Polanco, Ignatius's secretary from 1546 onwards, sought on Ignatius's behalf the explicit clarification of the general's authority in the bull *Exposcit Debitum* (1550).⁷⁹ Thus, in the revised Formula the council is clearly an aid to his governance only to the extent the general deems fitting.

In other matters which are of lesser importance, the same general, aided by counsel from his brethren to the extent that he will deem fitting, shall have the

⁷⁷ O'Malley, *The First Jesuits*, 54.

⁷⁸ *InstSJ* I: 24; English trans. in *The Manual of Juridical Practice of the Society of Jesus*, 196 (§377.14).

⁷⁹ Aldama, *Superior General*, 73–74.

right personally to order and command whatever he judges in the Lord to pertain to the greater glory of God and the common good as will be explained in the Constitutions.⁸⁰

Other key privileges pertaining to governance related to the authority of a general congregation to change and modify the Constitutions. The Formula of 1540 granted the faculty to a council (congregation) to “establish Constitutions.”⁸¹ This was a significant privilege, considering the initial resistance to a new order within the curia.⁸² This authority over the Constitutions was extended in the brief *Iniunctum Nobis* in 1544. This granted the congregation authority “to change and modify both those Constitutions already established and those to be established in the future, according to the changed circumstances of time and place.”⁸³ Any such changes were considered confirmed by Apostolic authority.⁸⁴

These extensive faculties reflected the changing circumstances of the order and the need to adapt the Constitutions as needs arose, such as increased membership, establishment of provinces, and the acquisition of houses and colleges. Nevertheless, such extensive powers in the hands of the congregation were a source of concern for Ignatius and Polanco. Afraid that a future congregation could alter the Constitutions “for the worse,” Ignatius sought an additional privilege to ensure that key points of the Constitutions remained unchangeable.⁸⁵ However, stipulation was somewhat mitigated in

⁸⁰ 1550 Formula of the Institute [hereafter FI 1550], inserted into *Exposcit Debitum*; in *Cons.*, 6.

⁸¹ Paul III, *Regimini Militantis*, 27 September 1540; quotation in *Cons.*, 15.

⁸² Antonio M. de Aldama, *The Constitutions of the Society of Jesus: The Formula of the Institute*, trans. Ignacio Echániz (St. Louis: Institute of Jesuit Sources, 1990), 31.

⁸³ *Iniunctum Nobis*; quotation in *Cons.*, 15.

⁸⁴ *Iniunctum Nobis*; *Cons.*, 15.

⁸⁵ *InstSJ* I: 9; see also Aldama, *Formula of the Institute*, 52.

the revised Formula of 1550 by granting the general congregation authority to declare any doubts that might arise from the Formula of the Institute.⁸⁶

Papal authority issued many of these privileges as a practical response to pressures placed on the young order through the demands of its varied apostolates and limited manpower. In *Regimini*, Paul III had restricted the total numbers of professed to sixty. Pedro Ribadeneira, one of Ignatius's closest companions in Rome, saw the hand of providence in this restriction.

And so the Society was confirmed in 1540 on September 27, but with certain limits and cautions. For the number of our professed was then limited to not more than sixty. I believe that this was providential, so that the development would proceed smoothly from the beginnings, through an intermediate stage, to its final form.⁸⁷

In 1544 Ignatius petitioned and obtained for the Society the privilege lifting the restriction on the numbers of professed. In addition to this privilege, the same brief granted the general the faculty to “communicate” the faculties of the professed to other persons entering, or firmly intending to enter the Society. This enabled those priests in simple vows deemed competent to assist professed priests in ministries requiring special faculties, such as absolving reserved sins.⁸⁸

⁸⁶ *InstSJ* I: 24.

⁸⁷ Pedro de Ribadeneira, *The Life of Ignatius of Loyola*, trans. Claude Pavur (St. Louis: Institute of Jesuit Sources, 2014), II: 166.

⁸⁸ The origin of this privilege was a *viva vocis* concession witnessed in a testimonial letter of Cardinal John Alvarez de Toledo of Burgos: “To the Superior of the aforesaid Society, the one presently in office or to whomever there will be in office in the future, [it is granted] that he may [transfer] those same faculties, graces, indulgences, and the other concessions that have been granted to him both generally and specifically through his Holiness and the Holy Apostolic See of your Society, and to whichever other persons who have entered, are entering, and will have entered the aforesaid Society, and profess the vow of chastity and poverty and have the intention of entering the aforesaid Society”; *FontDoc* 115: 654; trans. Brian P. Dunkle; Latin text in Olivares, “Privilegia pro Societate Iesu,” 344.

The rapid expansion of the Society also helped prompt the privilege to allow for the grades of “spiritual” and “temporal” coadjutors (non-professed priests and lay brothers) within the Society. Conceded in the brief *Exponi Nobis* in 1546, this privilege reflected the desire of many men to join the Society but who lacked the requisite academic, especially humanistic, training to fulfill the missions of the professed. They were however, sufficiently qualified for other ministries to act as auxiliaries in support of the professed.⁸⁹

The same brief further augmented the faculties of the Superior General. Ignatius obtained the faculty to appoint superiors, both provincial and local, to assist him in his task of governing the wider Society. For Ignatius this was a matter of urgency. Within days of receiving the authorized copy of the brief *Exponi Nobis*, he had appointed the first provincial, Simon Rodrigues, for the Province of Portugal.⁹⁰ Additional faculties included the authority to communicate to provincials the faculty to admit coadjutors to the Society, but not to solemn vows, a faculty reserved to the general.⁹¹

A number of key concessions, especially those pertaining to the active ministry and care of members of the order, dealt with pastoral privileges. These predominantly took the form of special faculties, that is, authorizations to administer the sacraments of the Church and perform other acts such as public preaching, lectures, and the reading of prohibited books. They also included faculties for absolving reserved cases, which were grave sins or crimes (*delicts*) that a bishop or the pope reserved to himself for absolution.

⁸⁹ O'Malley, *The First Jesuits*, 345.

⁹⁰ The date of the authenticated copy of the brief was 14 October, the date of Rodrigues's appointment was 25 October; see Aldama, *Superior General*, 5n8.

⁹¹ Aldama, *Superior General*, 4–5.

In addition to this was the faculty, otherwise reserved to bishops or to the Apostolic See, to dispense and commute vows.

These pastoral faculties were central to the Jesuit ministry of helping souls in the sixteenth century. The promotion of frequent confession and frequent communion formed the backbone of Jesuit sacramental ministry and bore immense fruit. This ministry was allied to an emphasis on preaching the Word through a variety of means such as homilies, sermons, public lectures, and the *Spiritual Exercises*. A 1547 account from Juan Polanco illustrates the success of these ministries:

At the Church of Santa Lucia they administered the sacraments to so many people that almost six hundred received Communion on Christmas. Not a few people were restored to the unity of the Church after having secretly lived in heresy or been entangled in serious excommunications for reading heretical books. Nor was there a lack of leading noblemen who drew profit from the *Spiritual Exercises*.⁹²

The success of these ministries highlighted the hunger for the sacraments within the sixteenth-century Church. The shortage of educated, disciplined clergy, and the proliferation of benefices and episcopal absenteeism from dioceses, created a pastoral crisis in many parts of Italy and Europe.

Another factor in the granting of faculties in the sixteenth century was the influence of the Reformation and the threat of heresy. A number of faculties were particular to the Church's response to heterodoxy and the influence of the printing press.

⁹²Juan Alfonso de Polanco, S.J., *Vita Ignatii Loyolae et rerum Societatis Iesu historia* (called the *Chronicon*) ed. Fernández Zapico, 3 vols. (Madrid, 1894–1898) [hereafter *Chron.*], I: 218; trans. John P. Donnelly, *Year by Year with the Early Jesuits, Selections from the Chronicon of Juan de Polanco, S.J.* (St. Louis: Institute of Jesuit Sources, 2004), 61.

These included the faculty to possess and read heretical or suspect books and interpret sacred scripture.

And they may freely read, without any scruple of conscience of any penalty of any sort of censure, whatever books suspected of heresy and at other times prohibited, for the sake of attack and contradicting them.⁹³

A key concession of pastoral faculties was included in the brief *Cum Inter Cunctas* of 1545. This was a ratification of all the pastoral faculties obtained by the Society through *viva vocis* and other concessions. These included the faculty to preach everywhere; to hear the confessions of the Christian faithful, including cases reserved to the Apostolic See; to commute and dispense from vows; and to celebrate the sacraments without prejudice from local ordinaries or parish priests.⁹⁴

Correspondence prior to this brief suggests that many Jesuits were unaware of the faculties they possessed. For example, in 1542 Ignatius wrote to Simon Rodrigues clarifying the faculties possessed by the first companions.⁹⁵ As noted above, the difficulty with *viva vocis* concessions was that they required later written testimonials or rescripts that could attest to their authenticity. As the Society expanded, especially after the lifting of the restriction on professed members in 1544, the need for a formal document authenticating these faculties became a practical necessity for good governance.

The growth and success of foreign missions provided the context for additional pastoral concessions. While the Jesuits had faculties to absolve reserved cases, certain cases were subject to special exception. These were grave sins, censures, and penalties

⁹³ The faculty to read and censure heretical and suspect books was listed among *viva vocis* concessions granted Jean Codure in 1541. These are found in a testimonial letter of Cardinal Alexander Farnese to Codure in 1543; quotation in Olivares, "Privilegia pro Societate Iesu," 343; trans. Dunkle.

⁹⁴ *InstSJ* I: 10–11.

⁹⁵ *Epist.* I: 232.

contained in the annual *Coena Domini* bull. Promulgated by the pope every Holy Thursday since the fourteenth century, it was a list of sins and crimes (*delicts*) especially reserved to the Holy Apostolic See for absolution. These included among others schismatics, heretics, falsifiers of papal documents, and those who traded weapons with the Saracens in order to wage war on Christians.⁹⁶ In *Licet Debitum* (1549), the Society obtained a special faculty for missionaries to absolve these cases. This grant responded to a petition from Nicolas Lancelotti in Goa who argued for its necessity due to the common occurrence of such cases and the distance of the missionaries from Rome.⁹⁷ In a letter to Rome he reported:

For every day there are cases reserved by the *In Coena Domini* because of the constant practice which Christians here have of dealing with the Moors and other infidels: for the Portuguese sell all kinds of weapons and horses and other goods without regard (even though we are constantly at war) to the Moors and other infidels; but no one goes to Rome to seek for absolution. In time of need many persons also promise to go to Jerusalem, to Rome, to Compostela, and they later suffer constant scruple.⁹⁸

The faculty to absolve from cases of heresy was later granted to the whole of the Society by Julius III in the brief *Sacra Religionis*.⁹⁹ This faculty was employed with great discretion for fear of causing resentment among certain authorities such as the Spanish Inquisition.¹⁰⁰

⁹⁶ Shuhler, *Privileges of Regulars*, 21.

⁹⁷ *Epist.* I: 647.

⁹⁸ *Documenta Indica [DI]* I: 131–46; trans. M. Joseph Costelloe, in *The Letters and Instructions of Francis Xavier* (St. Louis: Institute of Jesuit Sources, 1992), 165.

⁹⁹ The faculty to absolve from heresy was first obtained in a *viva vocis* concession by Alfonsus Salmerón in 1551; see Olivares, “Privilegia pro Societate Iesu,” 369.

¹⁰⁰ *Chron.* II: 218.; trans. Donnelly, in *Year by Year With the Early Jesuits*, 186.

Alongside the pastoral faculties were dispensations that allowed the Jesuits to focus their energies on the apostolate. Most notable was the dispensation from singing and reciting the Divine Office in choir. A source of contention among many opponents of the order, this dispensation was motivated by the primary concern for apostolic effectiveness. Jesuits were not to be prevented from performing works of charity, administering the sacraments, and preaching the Word. A similar dispensation was granted with regard to anticipating and postponing the celebration of the Eucharist after midday (*post meridian*) due to the demands of preaching and hearing confessions.¹⁰¹

The most notable concession of privileges came through the bull *Licet Debitum* in 1549. The bull constituted the *mare magnum* or “great sea” of the Society, the reconfirmation of all the Society’s existing privileges, and the communication to it of the privileges contained within the mendicant *mare magnum* bull of Sixtus IV.¹⁰² It was thus through *Licet Debitum* that the Society came into possession of many pastoral privileges and exemptions common to other orders.

A primary advantage of the *mare magnum* was that it removed the need for continual reconfirmations of certain privileges. The validity of privileges was never guaranteed from one pope to the next; and hence there was a need for ongoing confirmations. The *mare magnum* provided an additional degree of security insofar as it contained privileges common to other orders.

Through *Licet Debitum* the Society obtained privileges unique to its way of proceeding. These included the privilege to refuse ecclesiastical dignities and honors.

¹⁰¹ These dispensations are first mentioned in the testimonial letter of Cardinal Farnese (1543) concerning the concessions granted to Jean Codure in 1541; see Olivares, “Privilegia pro Societate Iesu,” 343.

¹⁰² Sixtus IV, *Regimini Universalis*, 31 August 1474; in *Bullarium Romanum*, V: 217; see Shuhler, *Privileges of Regulars*, 21.

Tied to this was the duty of the professed to report those ambitioning for such dignities.¹⁰³ This privilege followed Ignatius's ongoing struggles to dissuade ecclesiastical and secular authorities from promoting Jesuits to bishoprics and other dignities.¹⁰⁴ Society governance made exceptions only in rare circumstances, such as in mission territories.¹⁰⁵ *Licet Debitum* also provided a privilege allowing the Society to forbid those in vows from transferring to another religious order, with the exception of the Carthusian Order.¹⁰⁶

The bull augmented the faculties of the Superior General and his provincials. It granted the general the authority to confer on Jesuits missions, including among the "Infidel." The general was able to communicate to superiors faculties to dispense Jesuits from certain irregularities and penalties; and it obligated all Jesuits to confess their sins to their superior or to the one whom he designated.¹⁰⁷

The bull also granted a number of faculties that augmented the pastoral tools of the Society, such as the faculty to possess its own oratories, to use portable altars for the sacraments, to bury the dead within the Society's own cemeteries and churches, and to celebrate the sacraments in times and places under interdict.¹⁰⁸ Among other concessions were notable exemptions including freedom from episcopal jurisdiction and interference;

¹⁰³ *InstSJ* I: 14.

¹⁰⁴ Two famous examples were attempts to appoint Claude Jay as bishop of Trieste, and make Francis Borgia a cardinal. See *Epist.* I: 450–53 (trans. Munitiz and Endean, in *Saint Ignatius of Loyola: Personal Writings*, 168–69); *Epist.* IV: 283–85 (trans. Munitiz and Endean, in *Saint Ignatius of Loyola: Personal Writings*, 245–46); and *Epist.* IX: 226–27 (trans. Munitiz and Endean, in *Saint Ignatius of Loyola: Personal Writings*, 271–72).

¹⁰⁵ In 1554 Ignatius allowed Nunes Bareto, Andrés de Oviedo, and Melchor Carneiro to be ordained bishops for a mission to Ethiopia. See O'Malley, *The First Jesuits*, 327.

¹⁰⁶ *InstSJ* I: 15.

¹⁰⁷ *InstSJ* I: 15.

¹⁰⁸ *InstSJ* I: 16.

while, as a papal order, the Society already enjoyed such exemptions, the confirmation of them through the *mare magnum* gave them additional weight.

The other principal advantages of the *mare magnum* for the Society were those intended by Sixtus IV in his original *mare magnum* concessions of 1474. Firstly, this was a reward for those orders that labored tirelessly in the vineyard of the Lord; secondly, it aimed at removing the suspicion that popes favored a particular order over the others; and thirdly, it precluded disputes among the orders over the scope of their privileges.¹⁰⁹ Thus while the *mare magnum* bestowed immense benefits on the Society, it ultimately served to underscore the equality of the Society among the other orders.

Common Privileges

This section aims to place the privileges obtained by the early Society within the broader tradition of regular and mendicant concessions. The bull *Licet Debitum* of 1549 is the most obvious evidence of the relationship of Jesuit privileges to those of other orders. This represented the first communication of privileges to the Society. This communication was augmented considerably after the death of Ignatius in 1556. In 1565 Pius V issued the bull *Aequum Reputamus* wherein the Society acquired all the privileges granted to other religious institutes, whether mendicant or non-mendicant. As with many privileges, this received ongoing confirmations under successive popes. Thus, *Licet Debitum* marked a watershed in the history of Jesuit privileges because it brought them into the tradition of general communications established in the fifteenth century.

¹⁰⁹ Shuhler, *Privileges of Regulars*, 21.

Faculties to absolve reserved cases

Some of the most significant pastoral privileges obtained were faculties to absolve and dispense from cases reserved to bishops and the Apostolic See. The pope granted the earliest of these to the first companions in Venice, to Jean Codure in 1540, and through the brief *Cum Inter Cunctas* of 1544. These were subsequently augmented in *Licet Debitum* and *Sacra Religionis* by the additional faculty to absolve cases of heresy contained in the bull *Coena Domini*. With the exception of the faculty to absolve from heresy, faculties to absolve reserved cases were not exceptional for religious in the sixteenth century. For instance, in February of 1533, the priests of the Theatine Order were granted the faculty to absolve from cases reserved to the Apostolic See.¹¹⁰ I have been unable to confirm the same faculty for the Barnabites and Somaschi, but it is probable given their promotion of regular confession and frequent communion.¹¹¹ The antecedents for these faculties lay in the twelfth and thirteenth centuries. Individual priests were appointed as special confessors and granted faculties to absolve reserved sins and censures. For instance, in 1184 Lucius III bestowed upon the Abbot of Citeaux the faculty to absolve incendiaries, fugitive monks, and those who communicated (received communion) under interdict.¹¹² The mendicant faculties for dealing with reserved cases evolved over time. In 1223 the Friars Minor obtained restricted faculties to absolve reserved cases in the “lands of the Infidel.” This included the faculty to absolve cases of excommunication, and other censures reserved to bishops and the Apostolic See. In 1262 Urban IV (1261–1264) granted a similar faculty to the Order of Carmel to absolve its

¹¹⁰ Hudon, *Theatine Spirituality*, 23.

¹¹¹ O'Malley, *The First Jesuits*, 152.

¹¹² William Kubelbeck, “The Sacred Penitentiaria and Its Relations to the Faculties of Ordinaries and Priests” (JCD diss. Catholic University of America, 1918), 10.

members, personnel, and all faithful from cases reserved to the Apostolic See.¹¹³ The general communication of privileges to mendicant orders in the fifteenth century included a broadening of these faculties. For example, Sixtus IV granted all mendicants the faculty to absolve their own subjects from all reserved cases, except those contained in the bull *Coena Domini*.¹¹⁴

In contrast to the faculties to absolve reserved cases, the faculties to dispense and commute vows were a later development. For instance, only in 1439 did Eugene IV grant to the Benedictine monastery of Valladolid the faculty to commute vows. Other popes, including Sixtus IV (1484) and Innocent VIII (1492), extended similar faculties to the mendicant orders. In 1487 the Friars Minor obtained faculties to dispense from all vows reserved to bishops with the exception of a vow to undertake a pilgrimage of more than two days' journey.¹¹⁵

The importance of these faculties in the sixteenth century was largely tied to the expansion of the regular orders into overseas missionary fields. The early concessions to missionaries in "lands of the Infidel," those places deprived of proper communication with Rome, highlights this issue. Likewise, the letter from Nicolas Lancelotti to Ignatius requesting the faculty to absolve cases reserved in the bull *Coena Domini* and commute vows highlighted the pastoral needs in mission territories.

Privileges to anticipate, postpone, and recite the Office of the Church privately

Privileges to anticipate, postpone and recite the Office of the Church privately outside of choir were particular to the orders of Clerks Regular. While most orders retained the custom of singing the Office in choir, the demands of apostolic work and

¹¹³ Shuhler, *Privileges of Regulars*, 71.

¹¹⁴ Shuhler, *Privileges of Regulars*, 21.

¹¹⁵ Shuhler, *Privileges of Regulars*, 131.

limited manpower necessitated dispensations. An example are privileges granted to the Theatine order in 1529 and 1533 because of the pressure that limited vocations placed on the few active priests. Church historian Ludwig Pastor notes:

The burden of work falling on the individual members became so heavy that Clement VII, in 1529, ordered other forms of prayer to be substituted for the daily office to relieve those who were already over-charged with the duties of study, visiting the sick, and the confessional.¹¹⁶

The dispensation the Society obtained in the Formula of the Institute went beyond this by giving priority to the apostolic effectiveness of the Society. Jesuits were to be freed for performing works of charity and given the flexibility required to perform their primary mission.¹¹⁷

Privilege to refuse ecclesiastical dignities

The privilege to refuse ecclesiastical dignities was not unique to the Society. The Barnabites, for example, took a fourth vow to refuse dignities unless ordered to do so by the pope.¹¹⁸ Moreover, although the mendicants never adopted a consistent policy, they also resisted dignities. In 1252, 1254, and 1255, general chapters of the Order of Preachers instituted bans on the acceptance of bishoprics by provincials and friars, unless the master general or provincial had granted prior permission. A general chapter in 1316 went further, banning provincials from permitting friars to accept dignities.¹¹⁹ Antonio de Aldama notes that these prohibitions were subsequently added into the Dominican

¹¹⁶ Pastor, *The History of the Popes*, vol.10, 418.

¹¹⁷ Aldama, *Formula of the Institute*, 92.

¹¹⁸ Currier, *History of Religious Orders*, 368.

¹¹⁹ Aldama, *Superior General*, 116.

constitutions and found their way into Polanco's *Collectanea* of regular rules and constitutions that informed Ignatius's writing of the *Constitutions*.¹²⁰

Conclusion

The aim of this chapter has been twofold. First, it has endeavored to provide an overview of the major concessions granted to the early Society between 1537 and 1556. Second, it has sought to highlight the extent to which these privileges were common to or had antecedents in the tradition of other orders.

The pattern of major concessions to the Society reflected key stages in the growth of the nascent order. The pastoral faculties obtained by the first companions in Venice and Rome firmly established their core ministry of helping souls through the ministry of the Word and sacrament of confession. The faculty to absolve sins reserved to bishops and the Apostolic See tied the early Jesuits to a long tradition of regular confessors with special faculties.

The period of 1540 to 1556 was a gestational period for many features of the Society that today are easily taken for granted. These included privileges clarifying the authority of the Superior General and his council and the authority of a general congregation to make changes to the Constitutions of the Society. Moreover, many of the privileges were practical responses to the demands placed on the burgeoning order, such as the admission of spiritual and temporal coadjutors and faculty for the general to appoint provincials.

While a number of these concessions were unique to the circumstances of the Society, a significant number of privileges were common to other orders, especially the

¹²⁰ Aldama, *Superior General*, 116.

mendicant orders. Though the bulk of these were obtained via the *mare magnum* bull *Licet Debitum* of 1549, many others had antecedents in either mendicant privileges or those of the new orders of Clerks Regular such as the Theatines, Barnabites, and Somaschans. These included faculties commonly thought unique to the Society, such as the right to refuse dignities and obtain dispensations from the Office due to the demands of ministry.

Chapter Three: The Approach to Privileges in Ignatian Correspondence and the Constitutions of the Society of Jesus

A key source for studying the attitude of the early Society toward its privileges is the correspondence of Ignatius of Loyola (1491–1556). Ignatius’ epistolary output was vast, surpassing all of his historical contemporaries. Tallied at around seven thousand letters, it fills twelve volumes of the *Monumenta Historica Societatis Iesu* (MHSI). During his generalate (1540–1556), the majority of this correspondence was concerned with the internal affairs of the Society. This correspondence was a vital instrument for exercising governance over the fledgling Society, especially prior to the formulation and promulgation of the *Constitutions*. Consequently, many letters served to instruct and guide Jesuits on fundamental features of the Society’s Institute and way of proceeding. This included the approach to the Society’s privileges, faculties, and other special favors.

Terms

The correspondence reveals that Ignatius used a series of terms interchangeably to refer to the privileges obtained by the Society. These include privileges, faculties, graces, concessions, indulgences, gifts, and favors.

The term “privilege” is encountered relatively rarely in the Ignatian correspondence. In the period from 1537 to March 1550 (vols. 1–2) the term “privilege” appears only four times.¹²¹ This increases to seventeen references from April 1550 to April 1553 (vols. 3–4). The remaining volumes (vols. 5–12) from May 1553 to July 1556 contain a total of 104 references. The vast increase in correspondence after 1553 owes to

¹²¹ Latin: *privilegium, privilegia*; Spanish: *privilegio, privilegios*; Italian: *privilegio, privilegi*.

the expansion of the Society's numbers and ministries. The establishment of new communities and provinces, in addition to the increase in the number of professed fathers, necessitated the communication of privileges and faculties throughout the Society.

More prevalent in the correspondence is the reference to faculties.¹²² Between 1537 and May 1553 (vols.1–4) the term appears eighty-four times. This increases to 225 between May 1553 and July 1556. The emphasis on faculties is understandable because these were by far the “privileges” most sought after by Jesuits who were tending to the care of souls.

In many cases the letters pertaining to privileges and faculties are dry formulaic documents conceding the required faculties, graces and indulgences on the subject in question. Many letters of this nature after 1547 are *ex commissione* from the hand of Juan de Polanco, Ignatius' secretary.

Correspondence on the Privileges

Several letters provide a crucial insight into Ignatius' understanding of privileges for the Society. A recurrent theme is that these were special graces bestowed on the Society for the spiritual advancement of its mission and the service and glory of God. For instance, when communicating faculties to Francis Xavier in 1545, Ignatius noted that his “only aspiration is that the Catholic faith might everywhere flourish and increase and that with all diligence the souls of Christian believers might be gained for God.”¹²³ In a letter of December 1547, he described the privileges and faculties of the Society as a “treasury of graces.” Using the words of Paul's letter to the Romans, he said these graces were “for

¹²² Latin: *facultas, facultates*; Spanish: *facultad, facultades*; Italian: *facoltà, facoltà*.

¹²³ *Epist.* I: 350; trans. Palmer and Padberg, in *Ignatius of Loyola: Letters and Instructions*, 123.

building up, not for breaking down.”¹²⁴ Such language fit well with Ignatius’ emphasis on edification throughout his writings. Ultimately, the special faculties bestowed on the Society were spiritual instruments for the healing and renewal of the Christian soul. This sentiment was captured in a letter Ignatius wrote in 1544 requesting the special faculty to absolve an irregular priest:

Should your Reverend Lordship deem it for the glory of God our Lord to grant me full faculties *to remedy this soul in the forum of conscience*, I shall be able to act in Your Reverend Lordship’s name, to the greater glory of God our Lord.¹²⁵

Alongside these clear pastoral motives was an awareness of the inherent dangers in perceived abuses of the Society’s privileges. Though Ignatius enjoyed the authority to exercise the privileges of the Society with liberty, his letters frequently advised caution and moderation in their use. Specific examples of this are found in letters to Peter Faber in July 1545, the Flemish Jesuit Daniel Paeybroeck in 1547, and to Anthony Araoz in 1549.

The letter to Faber concerns exemption from episcopal control. By 1545 the Society had obtained the privilege to exercise its ministries independent of approval by the local ordinary. Despite this authorization, Ignatius advised Faber to present himself before the local bishop and obtain permission lest the arrival of the Society cause scandal among the people and “hinder their edification.”

Nevertheless, inasmuch as we desire to employ this talent granted to us soberly and to the praise of the Lord according to His Holiness’s intention, and are

¹²⁴ Ignatius here alludes to 2 Cor. 10:8 and 13:10. *Epist.* I: 659–63; trans. Munitiz and Endean, in *Saint Ignatius of Loyola: Personal Writings*, 197n9.

¹²⁵ *Epist.* I: 293; trans. Palmer and Padberg, in *Ignatius of Loyola: Letters and Instructions*, 115–16.

concerned lest our undertaking the administration of the word of God and the sacraments without the goodwill and leave of the immediate superior should occasion scandal among the people and hinder their edification, it is our will that, after first consulting the local spiritual authority and showing him the faculties, you act in such a way that, having first asked and obtained his permission, you are able to carry out your divine task with the love of all, unto his praise.¹²⁶

In the letter to Daniel Paeybroeck in 1547, Ignatius provided a detailed account of his duty as Superior General to dispense, rather than disperse, the privileges and faculties of the Society to ensure they are used with moderation and as needs dictated:

As regards the faculties and privileges that have been granted to this Society for the help of souls, please do not interpret the fact that I am not offering these immediately as implying any doubt of your honesty or prudence in making use of them. My conscience bears me witness that I have the highest opinion and hopes of you. But this treasury of graces was entrusted to me ‘for building up, not for breaking down,’ so that I might dispense them to our members as I may find each suited, and according to the needs of each. Therefore, it is my duty to make use of them cautiously and with moderation, remembering that my job is to be a dispenser not a disperser.¹²⁷

Ignatius goes on to cite cases of other religious who have abused their privileges. In this passage he intimates at the extraordinary scope of the Society’s faculties describing them as “so unusual” that they could arouse envy in others if used too much.

¹²⁶ *Epist. I: 311*; trans. Palmer and Padberg, in *Ignatius of Loyola: Letters and Instructions*, 121.

¹²⁷ *Epist. I: 659–63*; trans. Munitiz and Endean, in *Saint Ignatius of Loyola: Personal Writings*, 197.

Further, there are many today who by abusing their privileges have justly been deprived of them. (I am not referring to any of our own members; by God's grace none of them, to my knowledge, had either committed such abuse or suffered such deprivation.) This ought to make us more careful, so that by using the faculties granted to use them properly and with moderation, we may let them become established. They are so unusual that they could expose us to envy unless we temper liberty with moderation.¹²⁸

The letter to Paeybroeck is a valuable source for showing Ignatius' concern for administering the Society's privileges with prudence. Importantly, it situates his concern for moderation in light of the abuses by other religious orders and the need to guard the reputation of the Society.

A third example is a letter to Fr. Antonio Araoz in Spain dated December 1549. Likely written by Polanco, it informs Araoz that the Society had obtained the *mare magnum* of privileges. This news is tempered by a warning to exercise moderation in light of tensions with the Archbishop of Toledo.¹²⁹

The Constitutions on Privileges.

The Constitutions regarding privileges are consistent with Ignatius' advice in his letters. The Constitutions were written throughout the period of the concessions under discussion. They were approved only 1558, by the First General Congregation, two years after Ignatius' death. The Constitutions reveal the depth of Ignatius' reflection on the issues of harmonizing the privileges of the Society with its fundamental vocation of

¹²⁸ *Epist.* I: 659–63; trans. Munitiz and Endean, in *Saint Ignatius of Loyola: Personal Writings*, 197–98.

¹²⁹ “Al Dr. Araoz asímesmo se concede que communique las gratias á quien le paresciere; pero que, en el arcibispado de Toledo specialmente, se vse moderación”; *Epist.* II: 624.

helping souls while at the same time acknowledging their role in protecting the status of the Society as an approved order of the Church. Here I offer three examples.

First, in Part X of the Constitutions emphasis is placed on using the “favors granted by the Apostolic See” with discretion and moderation for the sole purpose of aiding souls.¹³⁰

Help will also be found in a discreet and moderate use of the favors granted by the Apostolic See, by seeking with all sincerity nothing else than the aid of souls. For through this God our Lord will carry forward what He has begun, and the fragrance of the good works arising from the genuineness of the good works will increase the benevolent desire of others to avail themselves of the Society’s aid and to help the Society for the end which it seeks, the glory and service of His Divine Majesty.¹³¹

The wording of the constitution betrays the underlying tension of possessing privileges. As seen above in the letter to Paeybroeck, Ignatius was acutely aware of the damage indiscreet and immoderate use of privileges did to the reputation of religious orders.¹³² The discreet use of such favors had the additional advantage of providing edification, increasing in others the desire to join or support the works of the Society. The favors granted the Society by the Apostolic See are here presented only as aids in achieving its end of helping souls and glorifying God.

Second, Ignatius opens the General Examen with reference to the “various favors” granted the Society by the Apostolic See.

¹³¹ *Cons.* §825, p. 405.

¹³² Antonio M. de Aldama, *The Constitutions of the Society of Jesus: An Introductory Commentary on the Constitutions*, trans. Aloysius J. Owen (St. Louis: Institute of Jesuit Sources, 1989), 311.

This least congregation, which at its earliest foundation was named the Society of Jesus by the Holy See, ‘was first approved by Pope Paul III, of happy memory, in the year 1540. Later it was confirmed by the same Holy Father in 1543 and by his successor Julius III in 1550. On other occasions too it is mentioned in different briefs and apostolic letters granting various favors, after highly approving and confirming it.’¹³³

The main focus of the constitution was on affirming the status of the Society as an approved order of the Church. It highlights the importance of papal confirmations for the Society to protect its institute and reputation within the first decade of its existence. Aldama points to the need to affirm the papal approbation of the name Society of Jesus. The choice of name proved controversial and great care was taken to ensure it was bestowed on the order through the authority of the Apostolic See.¹³⁴

Third, in Part II dealing with persons who leave the Society, Ignatius provided for the use of privileges to allow for the reincorporation of those who leave due to “some strong temptation or when misled by others.” At the discretion of superiors, “steps may be taken to bring them back” through employing the relevant privileges.¹³⁵ These privileges included the faculty to capture and incarcerate “apostates of the said Society.”¹³⁶ Again these privileges are to be used with discretion and only in the circumstances described for the good of the Society. Elsewhere Ignatius was adamant

¹³³ *Cons.* §1, p. 23.

¹³⁴ Aldama, *An Introductory Commentary on the Constitutions*, 25.

¹³⁵ *Cons.* §236, p. 104.

¹³⁶ *InstSJ* I: 15–16.

regarding the refusal to readmit members who leave of their own will or were dismissed.¹³⁷

The tenor of the Constitutions and correspondence reveal the extent to which Ignatius was cognizant of historical and contemporary tensions over the exercise of religious privileges. The emphasis on moderation and discretion was grounded in experiences of controversy that the early Jesuits faced. The historical context sheds key light on Ignatius' approach to privileges. I will consider it first through the lens of the secular-mendicant controversies and then through the lens of controversies the early Society experienced.

Privileges and Controversy

Historical context: controversies over mendicant privileges

The accumulation and abuse of privileges by the mendicant orders was a recurring source of friction among religious orders, the episcopacy, and secular clergy from the thirteenth century onwards. A key source of tension lay in the broad exemptions of the orders from episcopal and parochial jurisdiction. These freedoms were augmented by other privileges that enabled orders to operate *de facto* parishes independent of the local church. For example, the privilege of the portable altar for sacraments freed friars from using local parish churches for their devotional needs and provided a means of providing sacraments to the faithful wherever they happened to be.¹³⁸

¹³⁷ *Cons.* §§231–35, p. 104.

¹³⁸ Honorius III, *Quia populares*, 3 December 1224, in Joanne H. Sbaralea ed., *Bullarium Franciscanum* [hereafter *Bull. Franc.*], vol. 1 (Rome, 1759), 20.

Privileges that carried pecuniary advantages compounded the tensions. In 1250, Innocent IV (r.1243–1254) granted the Friars Minor the right of sepulture.¹³⁹ This entailed the right to bury externs within their own cemeteries and churches. As a sought-after honor for wealthy nobles and merchants who hoped to accrue the benefits of the friar's prayers, the financial advantages of this privilege were significant because it implied burial fees, bequests, and legacies for memorial masses.¹⁴⁰ The major implication of this privilege was to place the mendicants in direct competition and conflict with the local parochial clergy over revenues and parishioners.

A further source of tension over mendicant privileges followed several papal bulls moderating the strictures on Franciscan poverty and property. The practical implications of the growth of the order and its expansion into the intellectual apostolate and other fields necessitated a controversial re-interpretation of the Rule's prescriptions on poverty. In 1230, Gregory IX (r.1227–1241) issued the bull *Quo elongati*, which introduced a distinction between possession of property and its necessary use (*usus*), for example, as regarded material things such as books, furniture, and land. More controversial was the bull of Innocent IV, *Ordinem vestrum* (1245). This bull permitted the friars to obtain for their use not only what was deemed necessary for their life, but also things they deemed useful (*necessarium, aut utilem*).¹⁴¹ These relaxations on poverty created tensions within the order. This was evident in a succession of General Chapters beginning in 1251 which

¹³⁹ Innocent IV, *Cum a nobis petitur*, 25 February 1250; in Sbaralea ed. *Bull. Franc.* 1: 537.

¹⁴⁰ A.G. Little, *Studies in English Franciscan History: Being the Ford Lectures Delivered at the University of Oxford in 1916* (Manchester: University of Manchester Press, 1917), 109.

¹⁴¹ Innocent IV, *Ordinem vestrum*, 14 November 1245; trans. Armstrong, *Francis of Assisi: Early Documents*, vol. 2, 776.

prohibited the use of the Innocentian privilege in light of its laxity and vulnerability to abuse.¹⁴²

These tensions over the use of privileges served as a catalyst for the secular-mendicant controversy in the mid-thirteenth century. This ongoing polemical dispute between the secular and mendicant masters of the University of Paris served to frame future considerations concerning the privileges of regulars and the very place of regular orders in the Church.

Indicative of the secular position were the writings of William of Saint-Amour (1200–1272). In his anti-mendicant polemic *De periculis*, William questioned the very legitimacy of the mendicant orders, identifying them in apocalyptic terms as the forerunners of the Antichrist.¹⁴³ Mendicancy, he claimed, represented a distortion of Christ's teachings and a rejection of the values of traditional monasticism. Concerning the pastoral privileges of the orders, William argued that only the episcopate and parochial clergy were empowered by the tradition of the Church to preach and administer the sacraments. This conviction led William to a direct criticism of papal authority. For William and other seculars, the pope was undermining the ecclesiastical order of the Church by distributing privileges.¹⁴⁴

Leading mendicant theologians such as Bonaventure (1221–1274), Thomas Aquinas (c.1224–1274), and Thomas of York (1220–1269) issued responses to William's attack. A key feature of these was the defense of papal jurisdiction. Bonaventure identified the attack on the orders and their privileges as primarily an assault on the

¹⁴² Little, *Studies in English Franciscan History*, 30.

¹⁴³ Andrew Traver, "*The Identification of the Vita Apostolica with a Life of Itinerant Preaching and Mendicancy: Its Origins, Adherents, and Critics, ca. 1050–1266*" (PhD diss., University of Toronto, 1996), 163.

¹⁴⁴ Traver, "The Identification of the Vita Apostolica," 172–73.

papacy. Because it was the papacy that had approved the mendicant life, to question its integrity and validity was to question the authority of the pope himself. Bonaventure wrote:

But if one wants to oppose or disprove every type of begging followed by those serving Christ, it would seem that he opposes not only the order of poor men but even the pope himself who approved this way of life.¹⁴⁵

In this context, the dispute over privileges touched much deeper disputes over the constitutional nature of the Church and the tension between the inviolable rights and duties of individuals and the ecclesiology of jurisdictional relationships. Ultimately, mendicant privileges reflected the unique bond between the mendicant orders and the papacy, by which the orders came directly under the jurisdiction of the latter, and presented an immense challenge to traditional conceptions of authority within the episcopate and secular clergy. The deliberations of the Second Council of Lyons (1274) and the failed attempt by bishops to suppress the mendicant orders both provide evidence of the severity of the controversy.¹⁴⁶

Moreover, Ignatius's emphasis on moderation in the use of privileges was not new. The mendicant orders became increasingly sensitive to the hostility that bishops and seculars directed towards them. Through a series of General Chapters, the Dominicans and Franciscans attempted to limit the use of broad privileges that further encroached on diocesan authority. In 1282 Martin IV issued *Ad uberes fructus*, which granted full exemptions from episcopal control and the universal right to grant absolution without the permission of the parish priest or bishop. Fear of further estranging the local clergy led

¹⁴⁵ Bonaventure, *Opera* V: 141; trans. in Traver, "The Identification of the Vita Apostolica," 200.

¹⁴⁶ John R.H. Moorman, *A History of the Franciscan Order: From Its Origins to the Year 1517* (Oxford: Clarendon Press, 1968), 177.

both the Dominican and Franciscan chapters of 1282 to institute restrictions on the use of the privileges within *Ad uberes*. Similarly, A.G. Little notes that during disputes with monasteries over rights, friars in England willingly disavowed their privileges as an act of humility.¹⁴⁷

Sixteenth-Century Controversies

The Fifth Lateran Council (1512–1517)

The controversy over mendicant privileges re-emerged within the context of internal Church reform in the first half of the sixteenth century. The tenth session of the Fifth Lateran Council (1512–1517) witnessed a concerted attempt by bishops to restrict the privileges of both the mendicant and regular orders and to reduce them to *ius commune*, the common law of the Church. The major issue was the abuse of the *mare magnum* privileges granted to the friars, which bishops believed attacked the dignity and jurisdiction of the episcopate. Through the skilled interventions of the Augustinian Master General Giles of Viterbo and other mendicants, the orders initially obtained permission to institute their own self-reform decrees within their own general chapters. Nevertheless, episcopal pressure on Leo X forced him to impose restrictions on the *mare magnum* privileges of the orders through the decree *Dum intra mentis arcana* (1516). This bull placed limitations of several of the *mare magnum* privileges of the orders but fell far short of completely reducing them to common law. These privileges included: 1) limiting the authority of the friars to absolve reserved cases and ecclesiastical censures, and compelling them to publish and observe, when requested, censures imposed by the local ordinary; 2) requiring that any authority seeking to administer sacraments in future

¹⁴⁷ Little, *Studies in English Franciscan History*, 94.

obtain an agreement between the friars and bishop; and 3) requiring the friars to obtain the permission of the local pastor before removing a body from the parish church for burial in their own church.¹⁴⁸

The successful implementation of *Dum intra mentis arcana* proved problematic. The bull received little attention from the mendicant orders. The general chapter of the Augustinians in May 1517 made no mention of the bull. The Dominican general chapter mentioned only one provision of the bull. Added to this relative silence, many bishops and clergy falsely represented *Dum intra mentis arcana* as a complete suppression of the friars' privileges. As a result, some bishops denied mendicant rights by, for instance, prohibiting parishioners from giving alms for mass offerings and from receiving confessions from friars.¹⁴⁹ Such abuses of *Dum intra mentis arcana* led Leo X to gradually reconfirm the mendicant privileges through a series of bulls. While these initially excluded those privileges modified by the bull *Dum intra mentis arcana*, the Lateran restrictions received increasingly less mention in future papal concessions.¹⁵⁰ The fate of the Lateran restrictions on mendicant privileges highlights the support the orders received from the pope, their own leadership and other patrons in the curia and episcopate.

¹⁴⁸ Minnich, "Egidio Antonini Da Viterbo," 259.

¹⁴⁹ Minnich, "Egidio Antonini Da Viterbo," 264.

¹⁵⁰ Leonine bulls to mendicants between 1517–1519 included *Superioribus diebus ut Fratres Mendicantes*, 14 May 1517 (confirmed privileges of all mendicants not modified by the Fifth Lateran Council bull *Dum intra mentis arcana*); *Intelleximus quosdam in dubium revocare*, 13 November 1517 (removed doubts that faithful Christians could hear Mass on Sunday or a feast day at a mendicant church); *Ea quae*, 31 August 1517 (third order mendicants are true religious and share in the privileges of their orders); *Cum inter ceteros operarios*, 21 June 1518 (extended Dominican privileges to all three orders of the Dominican family); *Exponi nobis*, 25 June 1518 and 3 December 1519 (reaffirmed privileges of the mendicants); *Dudum per nos accepto*, 10 December 1519 (granted to all mendicant orders all privileges and exemptions granted by him and his predecessors, which were to be held in common); see Minnich, "Egidio Antonini Da Viterbo," 265–66.

The Council of Trent (1545–1563)

Episcopal resentment over mendicant privileges resurfaced during the first session of the Council of Trent. John O'Malley notes that the bishops at Trent were "in the main more moderate" than their predecessors at Lateran V; nevertheless they strenuously asserted their right to exercise episcopal supervision over mendicants within their dioceses.¹⁵¹ One opponent of mendicant privileges, the Bishop of Fiesole, exclaimed in council:

Shall religious preach in their churches without being commissioned by us, the bishops? In that case we shall allow the wolves to get access to the sheepfold, not indeed by the main entrance but by the back door!¹⁵²

The context of such attacks was the reform and reaffirmation of episcopal authority; a role diminished through the practice of non-residency (absenteeism). Central to these reforms were attempts to re-establish oversight over ministries that in many dioceses had been monopolized by mendicants and other orders.

Despite vocal opposition from certain quarters at Trent, the mendicants and regulars had significant supporters among the council Fathers, including Cardinals Cervini, Del Monte (the future Julius III), and Pole.¹⁵³ To be sure, it is important to note that bishops did not uniformly resist the privileges of mendicant and other regular orders as many felt indebted to the ministries of mendicants and other religious within their

¹⁵¹ John W. O'Malley, *Trent: What Happened at the Council* (Cambridge: Harvard University Press, 2013), 100–101.

¹⁵² Bishop of Fiesole at Trent quoted in Herbert Jedin, *A History of the Council of Trent*, vol. 2, *The First Sessions at Trent 1545–47*, trans. Dom Ernest Graf (London: Thomas Nelson and Sons Ltd., 1961), 107.

¹⁵³ Jedin, *A History of the Council of Trent*, 112–13.

dioceses.¹⁵⁴ This fact highlights the need to exercise caution in viewing resistance to regular privileges among the episcopate as a universal issue.

Thus, in the process of acquiring privileges, the Society inherited a legacy of controversy stretching back to the thirteenth century. This history of tensions over the exercise of privileges provides a crucial lens through which to view the early Society's approach to its concessions and response to resistance towards them.

Opposition to Jesuit Privileges

Ignatius' instructions to exercise moderation and discretion in the use of privileges can be read in light of several controversies that the first companions and nascent Society experienced, which undoubtedly honed Ignatius' sensitivity to scandal. Several episodes are worth noting. First, Ignatius' own experiences as a student at Alcalá (1526), Salamanca (1527), and Paris (1529) were punctuated by periodic persecutions due to suspicions about his teaching and way of life.¹⁵⁵ Though he was cleared of heresy on all occasions, the specter of these encounters with ecclesiastical authorities informed his response to similar persecutions in the 1530s.

Second, in both Venice and Rome the early companions encountered suspicions over their way of life and teaching. In 1536 rumors were spread about Venice that the companions were *Alumbrados* and Lutherans in disguise. Rumors about Ignatius' encounters with the ecclesiastical tribunal in Paris fueled these accusations.

¹⁵⁴ O'Malley, *Trent*, 238.

¹⁵⁵ *Reminiscences*, §§58–63, 67–72, 84; see *Saint Ignatius of Loyola: Personal Writings*, ed. Munitiz, Endean, and McCarthy, 40–44, 46–48, 55.

Rome

The worst controversy erupted in Rome in 1538. When the companions attempted to challenge the Lutheran doctrine of the Augustinian preacher Fra Agostino Piamonte, opponents launched severe attacks against their way of life and doctrine. Ignatius's correspondence with Isabel Roser captures the intensity of the crisis. In a letter dated 19 December 1538, Ignatius reported:

In fact, the affair has taken on such proportions that during the eight whole months we have had to undergo the most violent opposition and persecution that we have ever experienced in our lives. I don't mean to say that we have been physically attacked, or formally arraigned, or anything of the sort. The system was rather to spread reports among the people and to describe us in incredible terms, so that we were an object of suspicion and hatred for all, becoming a focus of considerable scandal.¹⁵⁶

A key feature of this controversy was Ignatius' determination to clear the reputations of himself and his companions. Through numerous petitions and a personal audience with the Paul III, Ignatius pressed for a judicial process to officially clear their names of any taint of heresy. While Paul III eventually provided this official validation, the experience underscored for Ignatius and the companions the ever-present risk of scandal and need for official endorsement. Undoubtedly, these experiences of enemies within quarters of the Church provided a context for the pragmatic exercise of the Society's privileges and faculties.

¹⁵⁶ *Epist.* I: 137–38; trans. Munitiz and Endean, in *Saint Ignatius of Loyola: Personal Writings*, 150.

The emphasis on moderation over the use of privileges is brought into sharper focus by a series of controversies that touched directly on the privileges of the Society.

Paris

Attempts by the Society to formally establish itself in France in the 1550s met with fierce resistance. Although a small Jesuit community was already in Paris prior to the founding of the Society in 1540, the Society required the right of naturalization (*droit de naturalisation*) to establish itself in the kingdom. While the Society enjoyed the support of benefactors within the French hierarchy, its opponents proved stronger than their backers. Underlying this opposition lay strong currents of Gallican sentiment within the French Parlement, the French episcopate, and the Theological Faculty of the University of Paris. In this context the presentation of papal bulls and privileges as signs of authorization only exacerbated Gallican resistance to the encroachment of papal authority into the French Church. In December 1554 the theologians of the University of Paris published a fierce condemnation against the Society. Among its litany of accusations against the order, the theologians denounced the privileges that infringed upon the rights of bishops, pastors of parishes, universities, and other religious orders.¹⁵⁷

The impact of this condemnation cannot be overstated. John O'Malley notes:

The rebuff from the Faculty, still considered the most prestigious voice in the theological world, was a major setback. It was emotionally painful because of the pride the first companions and other Jesuits took in their earlier association with the University.¹⁵⁸

¹⁵⁷ O'Malley, *The First Jesuits*, 289.

¹⁵⁸ O'Malley, *The First Jesuits*, 287.

In a letter to John Pelletier in January 1555, Ignatius reduced the opposition in Paris to two principal things, the very name of the Society —“The Company of Jesus”—and the many privileges that it possessed. He wrote:

On the other hand we understand that our great trials come from the opposition of the bishop, and the parliament, and the faculty of theology. They oppose two things against us: one regards the name, that we call ourselves members of “The Company of Jesus”; the other, that we have so many privileges from the Apostolic See.¹⁵⁹

The decree of condemnation led to several rebuttals by Jesuits. Polanco and Martin de Olabe engaged in conversations with Parisian theologians in Rome during the autumn of 1555. Among their arguments was a defense of the pastoral privileges of the Society. These they claimed were largely consistent with the privileges of the mendicant orders and did not present a challenge to the jurisdiction of the bishops and pastors.¹⁶⁰ Moreover, Polanco and de Olabe argued that accusations that the Society was a danger to the faith could not be reconciled with the evidence of papal approval and favors shown to the Society.¹⁶¹ A third apologia against the censure by the Faculty was Jerome Nadal’s *Apologia contra censuram Facultatis theologiae Parisiensis*.¹⁶² As with Polanco and de Olabe, Nadal emphasized the papal approbation of the Society as the only necessary

¹⁵⁹ *Epist.* VIII: 326; trans. Dunkle.

¹⁶⁰ O’Malley, *The First Jesuits*, 291.

¹⁶¹ O’Malley, *The First Jesuits*, 291.

¹⁶² Jerome Nadal, *Apologia contra censuram Facultatis theologiae Parisiensis* [Apology against the Censure of the Theological Faculty in Paris]; see William V. Bangert, *Jerome Nadal, S.J., 1507–1580: Tracking the First Generation of Jesuits*, ed. Thomas M. McCoog (Chicago: Loyola University Press, 1992), 205.

evidence for its validity, and also argued that, despite the faculty's censure, the Society had flourished and "gathered an abundant harvest in Christ."¹⁶³

Alcala

In Alcala, Spain, the archbishop of Toledo, Siliceo, openly challenged the privileges and faculties of the Society, creating a series of controversies over Jesuit preaching and doctrine. Despite the Society's exemption from episcopal oversight, Siliceo initially restricted and then forbade the Jesuits from ministry within the diocese. In the *Chronicon*, Polanco noted numerous attempts by the Society to placate and inform the Archbishop of the Society's Apostolic approbations and privileges. In one instance, Fr. Villanueva laid the privileges before the Archbishop. Polanco reported:

The Archbishop did not conceal his animosity towards the Society, and he offered his reasons, namely: that the Society had established its house in Alcala without his permission; that it is called the Society of Jesus; that it performed the ministry of hearing confessions and preaching without his permission; that with the *Spiritual Exercises*, which he thought were not in conformity with the Gospel, they make men foolish, so that nobles no longer act like nobles, etc.¹⁶⁴

In addition, other factors motivated Siliceo's hostility toward the privileges of the Society. For example, the archbishop had minimal regard for papal authority due to the the pope's corruption through nepotism. When presented with the papal letters, he rebuked them with the words "here we do not need the Supreme Pontiff."¹⁶⁵

¹⁶³ Bangert, *Jerome Nadal*, 205–206.

¹⁶⁴ *Chron.* II: 339; trans. Donnelly, in *Year by Year with the Early Jesuits*, 184.

¹⁶⁵ *Chron.* II: 339; trans. Donnelly, in *Year by Year with the Early Jesuits*, 184).

The more apparent cause of Siliceo's resistance to a Jesuit presence in his diocese lay in the Society's acceptance of *conversos* ("New Christians" of Jewish or Muslim blood) as candidates. The Society's pro-*converso* policy was an affront to the Iberian promotion of purity-of-blood (*pureza de sangre*) policies in the sixteenth century.¹⁶⁶ In 1554, Siliceo promised Nadal he would build the Society "a great college" if it barred *converso* candidates in its *Constitutions*. Nadal's reported response was to indicate that such a policy was contrary to the will and intention of its founder, Ignatius.¹⁶⁷

It is in light of these tensions that one must interpret Ignatius' letter to Araoz advising moderation in using the *mare magnum* of 1549. Indeed, Polanco reported in the *Chronicon* that Villanueva and the other Jesuits began exercising moderation in the use of their privileges. This included sending those designated to be confessors to the visitor general for examination and to obtain permission to hear confessions.¹⁶⁸

This response reflected a wider policy of pragmatic caution towards opposition in Spain. Ignatius advised Antonio Araoz, himself a proponent of anti-*converso* policies, to exercise caution in the application process for New Christians. In a letter dated August 1553, Ignatius instructed Araoz to send *converso* candidates to other places for admission, including Rome, to avoid offending the sensibilities of Spanish authorities.¹⁶⁹

¹⁶⁶ Robert Maryks, *The Jesuit Order as a Synagogue of Jews: Jesuits of Jewish Ancestry and Purity-of-Blood Laws in the Early Society of Jesus* (Leiden: Brill, 2010), 80.

¹⁶⁷ Maryks, *The Jesuit Order as a Synagogue of Jews*, 84.

¹⁶⁸ *Chron.* II: 399.

¹⁶⁹ *Epist.* V: 335–36.

Another area of tension over the exercise of its privileges lay in the Society's relations with the Spanish Inquisition. In 1551, Ignatius communicated letters patent to the Spanish colleges granting the faculty to absolve in cases of heresy. In this instance, it appears the urge for moderation came from superiors within Spain. Polanco noted:

But prudent men thought that this authorization should be employed with great moderation in those (Spanish) kingdoms because of the prerogative of the Holy Office of the Inquisition, for the inquisitors seemed displeased that this faculty was granted to persons other than themselves....¹⁷⁰

The relationship with the Inquisition was exacerbated at this time by the recent tensions with Siliceo, and the active opposition from certain Dominicans such as Melchor Cano. In a letter to John of Avila, Ignatius highlighted attacks on the Society by Dominicans in Salamanca who charged it with heresy. Cano, a fierce opponent of the *alumbrados* and suspicious of the theology in the *Spiritual Exercises*, identified the Jesuits as precursors of the Antichrist; his attacks were effective in turning popular opinion against the Society inside of Spain.¹⁷¹ The severity of the conflict led the Minister General of the Dominicans to issue letters patent demanding his religious cease their assaults on the Jesuits.¹⁷²

The relationship of the early Society to the Inquisition was complex. Despite papal support, the Society depended on the general support of the monarchy, nobility, and episcopate in Spain. The bond between the Inquisition and the Spanish Crown made it impolitic to provoke controversy by asserting the Society's privileged rights. Further,

¹⁷⁰ "Sed illis in regnis propter auctoritatem Sancti Officii Inquisitionis moderatissime illa utendum esse prudentes existimabant"; *Chron.* II: 354–55; trans. Donnelly, in *Year by Year with the Early Jesuits*, 186–87.

¹⁷¹ *Chron.* I: 298.

¹⁷² *Chron.* I: 429.

while Ignatius was reticent about Jesuits being involved as inquisitors and standing in judgment over potentially innocent people, he was not opposed to the idea of the institution of the Inquisition itself. Indeed, many Jesuits actively pursued cases of heresy and brought them to the attention of authorities. Nevertheless, early Jesuit ministry emphasized combatting heresy primarily through reconciliation as opposed to condemnation. In a letter to Jesuits missioned to Germany in 1549, Ignatius underscored this approach:

Your zeal in pursuing heresy should evidence above all love for the heretics' persons, desire for their salvation, and compassion for them.... It will help to make good use of the Society's faculties and of those granted by the Sovereign Pontiff; these should be dispensed for building up and not for tearing down, generously but wisely.¹⁷³

Louvain

In 1556, the Society met concerted resistance over attempts to enter the University of Louvain in Belgium and to establish a college there. As a condition for admission, the local bishop required that the Jesuit fathers surrender their episcopal exemption to preach and hear confessions without permission. Polanco noted that Pedro Ribadeneira argued that the Society lacked the authority to curtail privileges granted to it by the Supreme Pontiff. To allow bishops to overrule the Society's exemption would be to act against the will of the Holy See.¹⁷⁴

¹⁷³ *Epist.* VII: 239–47; trans. Palmer and Padberg, in *Ignatius of Loyola: Letters and Instructions*, 291–97.

¹⁷⁴ *Chron.* VI: 455.

The examples above highlight some instances of opposition involving the Society's privileges. This opposition was of a type consistent with that levelled against mendicant privileges, in particular the accusation of encroachment on episcopal rights. Frequently the issue of the privileges appears as a foil for deeper resentments against papal authority. This was particularly evident in the case of the Parisian controversy and at Alcala. This resistance to papal authority from within the episcopate highlights the complex web of religious and political interests governing relations within the Church in the sixteenth century.

While exercising moderation and discretion in the use of their privileges, the Jesuits were reticent about surrendering their privileged rights. Like the mendicants, they were dependent upon the defense of their pontifical privileges and approbations for their very existence. As seen above, when the validity of its privileges were questioned, the Jesuits vociferously defended the papal authority undergirding them. Like the mendicant theologians in the mid-thirteenth century, the early Jesuits interpreted an attack on the privileges as an attack on the papal prerogative.

Conclusion

I argue that the Society's appropriation and application of its privileges was heavily influenced by three factors: 1) historical tensions over religious privileges; 2) experiences of persecution faced by Ignatius and the early companions; and 3) recurring opposition to the Society's presence in parts of Europe.

Ignatius' experience of persecution and charges of heresy made him vigilant about protecting the reputation of the nascent Society. While recognizing the immense value of the Society's privileges for helping souls, Ignatius was conscious of their

potential to excite jealousy in those opposed to the Society's works. This is revealed in his approach to the dispensation of privileges to members of the Society during his generalate, and his instructions governing their use. The emphasis on moderation and discretion was always a pragmatic adaptation to circumstances in order to avoid doing harm to the Society's reputation and mission to be of help to souls.

Conclusion

The privileges obtained by the early Society of Jesus highlight its place within the tradition of privileges granted to regular and mendicant orders. While the Society developed in many distinctive ways due in part to the unique circumstances and conditions of the sixteenth century, it grew within a juridical system with medieval roots and benefited from privileges created centuries before its inception. To exaggerate the distinctiveness of the Society's privileges as with other features of its institute is to ignore its place in this broader tradition of the Church.

The study of privileges presents challenges to the historian. Clearly identifying what constitutes a privilege can prove difficult due to the interchangeability of terms often encountered in correspondence and official documents. For example, in some instances a privilege clearly contains faculties, indulgences and other favors. In other cases privileges are mentioned alongside other graces, favors, faculties, and indulgences. Thus, it is crucial to read privileges aware that the precise definition and interpretation of privileges remained fluid and a source of contention for centuries.

Despite these challenges the privileges of the Society are untapped resources for studying the development of key features of the early Society, its institute and Constitutions. These documents reveal something of the demands and pressures the Society was under in its early years, its rapid growth and adaptation to needs as they arose. While privileges assisted the order in its growth they presented new challenges. For example, historical and contemporary controversies over religious privileges determined the Society's approach to their distribution and use.

The pattern and content of early concessions reflects the extent to which the identity and self-understanding of the Society was still evolving after 1540. Though it is tempting to think of the Society as clearly established with the approbation of the Formula of the Institute in 1540, this was not the case. Philip Endean notes that a clear consensus on the Society's way of life "only stabilizes during the generalate of Aquaviva (1581–1615) and after considerable conflict."¹⁷⁵ Thus, privileges often played a key role in defining aspects of early Jesuit identity in terms of governance and mission. One example was the role of privileges in defining the authority of the Superior General and the nature of Jesuit governance prior to the approval of the Constitutions and the First General Congregation in 1558.

The subject of Jesuit privileges is broad and this thesis has only touched the surface. I hope to have at least stirred interest in an often-neglected subject pertinent to the relationship of the Society of Jesus to the other orders of the Church and its own development.

¹⁷⁵ Philip Endean, "Who Do You Say Ignatius Is?: Fundamentalism and Beyond," *Studies in the Spirituality of Jesuits* 19 (1987): 18.

Appendix

Appendix I Table of Papal Concessions (1540–1556)			
Pope	Date	Bull	Privilege, Concessions, etc.
Paul III (r.1534–49)	27 September 1540	<i>Regimini Militantis</i> ¹⁷⁶	<ul style="list-style-type: none"> • Approbation of the Society of Jesus and its Formula of the Institute. • Restriction on the numbers of professed [to 60].
	14 March 1544	<i>Iniunctum Nobis</i> ¹⁷⁷	<ul style="list-style-type: none"> • Lifted restriction on numbers of professed members. • Authority of council (general congregation) to change the Constitutions.
	3 June 1545	<i>Cum Inter Cunctas</i> ¹⁷⁸	<ul style="list-style-type: none"> • Faculties for preaching, confessions, absolution of reserved cases except those in the bull <i>Coena Domini</i>, administration of sacraments. • Faculty to celebrate mass before daytime and later afternoon (post meridian) as often as deemed necessary by superior. • Exemption to recite the new shorter breviary of Francisco Quinones.
	5 June 1546	<i>Exponi Nobis</i> ¹⁷⁹	<ul style="list-style-type: none"> • To admit “spiritual” and “temporal” coadjutors. • For Superior General to promote coadjutors to orders. • Faculty for General to appoint local superiors and provincials. • Twenty presbyter coadjutors allowed to exercise faculties of the professed.
	31 July 1548	<i>Pastoralis Officii</i> ¹⁸⁰	<ul style="list-style-type: none"> • Approval of the <i>Spiritual Exercises</i>.
	18 October 1549	<i>Licet Debitum</i> ¹⁸¹	<ul style="list-style-type: none"> • Communication of <i>mare magnum</i> privileges of Friars Minor (Sixtus IV 1474). • Faculties to use portable altars; to have its own oratories; to bury in own cemeteries and churches; to celebrate sacraments in times of interdict. • Faculty for missionaries to absolve cases reserved in the bull <i>Coena Domini</i>. • Privilege to refuse dignities. • Exemption from spiritual care of women’s congregations. • Exemption from episcopal jurisdiction, interference. • Exemption from inquisitorial visitations.

¹⁷⁶ *InstSJ* I: 3–7.

¹⁷⁷ *InstSJ* I: 7–10.

¹⁷⁸ *InstSJ* I: 10–11.

¹⁷⁹ *InstSJ* I: 12–13.

¹⁸⁰ *InstSJ* I: 13.

¹⁸¹ *InstSJ* I: 13–21.

			<ul style="list-style-type: none"> • Faculty for general and provincials to promote men to sacred orders and present them to any bishop for ordination. • Faculty for the superior general to mission Jesuits to lands of the “Infidel.” • Faculty for general and provincials to dispense novices and members from impediments and irregularities for receiving and exercising sacred orders. Includes faculty to dispense from homicide and abortion in the internal forum if irregularity is occult. • Faculty to capture, incarcerate, and otherwise subject to their discipline apostates of the said Society. • Faculty for general and provincials to appoint lecturers in Theology and other faculties to colleges of the Society. • Houses and Colleges gifted to the Society are by that fact founded by Apostolic Authority. • Exemption from payment of tithes. • Faculty to say mass twice a day in remote places. • Indulgences including plenary indulgence once per annum for those who visit a church of the Society. Indulgence of seven years for those who visit on certain days incl. feasts of Nativity, Circumcision, Epiphany and Corpus Christi. • Christian faithful at retreat gatherings? of the Society are able to hear in Mass and receive Sacraments.
Julius III (r.1550–55)	21 July 1550	<i>Exposit Debitum</i> . ¹⁸²	<ul style="list-style-type: none"> • Approbation of revised Formula of the Institute. • Confirmations of other privileges.
	22 October 1552	<i>Sacrae Religionis</i> ¹⁸³	<ul style="list-style-type: none"> • Confirmation and enlargement of previous privileges. • Faculty to absolve cases of heresy in the forum of conscience. • Faculty to dispense from fasts and certain foods. • Divine Office commuted for the sick. • Faculties for members of the Society in and outside Universities to be promoted to grades within Society. • Elderly and infirm professed are able to live in colleges of the Society.

¹⁸² *InstSJ* I: 22–28.

¹⁸³ *InstSJ* I: 28–31.

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